of the Universe and Solar System. A model of the Viking spacecraft scheduled to land on Mars in 1976 and a globe of Mars that was mapped by Mariner 9 are among the other objects on display. National Air and Space Museum, Arts and Industries Building.

DISCOVERY ROOM VOLUNTEERS

Volunteers are needed to conduct tours in the Discovery Room in the Museum of Natural History. Applicants must be willing to work one day a week on a regular basis. Call Peggy Mahood, 381-5546 or 381-5985 for information and application.

SENATE—*Friday, October 4, 1974*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Come to us, Thou Light of the World, to banish our doubt, restore our faith, and direct our labors. Lift our eyes to the wide horizons above the noise and strife and tumult of our turbulent times. Help us to remember that each of us is an immortal soul with an eternal destiny—that while we labor in the fields of time, life is finally assessed by the enduring dimension of eternity. Spare us from being little souls with small ideas and narrow views. Light up our days with the knowledge that we belong to the kingdom which is both visible and invisible, temporal and eternal, a kingdom of love and peace and joy. Then may we offer our work to Thee and worship Thee—the ever-living, ever-loving God, to whom our prayer ascends.

Through Him who is the Light of the World. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, October 3, 1974, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of John A. Birknes, Jr., of Massachusetts, to be U.S. marshal for the district of Massachusetts.

The PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF DEFENSE

The second assistant legislative clerk proceeded to read sundry nominations in the Department of Defense.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. ARMY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Army.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

U.S. MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Marine Corps.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—AIR FORCE, ARMY, NAVY, AND MARINE CORPS

The second assistant legislative clerk proceeded to read sundry nominations in the Air Force, the Army, the Navy, and the Marine Corps, which had been placed on the Secretary's desk.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Does the Senator from New Hampshire desire to be heard?

Mr. COTTON. No, Mr. President, I do not desire to be heard.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time to be taken out of my time.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I understand that under the previous order, the Senator from Connecticut (Mr. WEICKER) was due to speak for 15 minutes, to be followed by the Senator from Virginia. I ask unanimous consent that that order be reversed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

TO BEAT INFLATION GET A GRANT (THE PAY IS GOOD)

Mr. HARRY F. BYRD, JR. Mr. President, concern is increasing throughout the country about the enormous deficits which the Federal Government has been running.

More and more Americans are rightly demanding that the Government set an example in the fight against inflation by showing restraint in its own spending.

I think there is now a consensus among economists that the huge deficits of the Government—$133 billion, or more than one-fourth of the total national debt, in the 6 years ending next June—are a major factor if not the major factor, in the inflation which is eroding the buying power of the worker's dollar.

In an effort to contribute to the fight against inflation, on Tuesday I began a series of speeches pointing out examples of wasteful and inappropriate uses of tax funds. This is my fourth report in this series, which I shall continue daily until the scheduled adjournment of the Congress on October 11.

I have mentioned previously some of the grant awards and policies of the National Science Foundation, which sponsors studies of such obscure subjects as "Early Phases of Hominid and Pongid Evolution" at public expense, and which has awarded more than $1.5 million in grants for studies at Yale University and Harvard University in the field of social sciences alone.

Today I want to point out that NSF is a most generous paymaster.

Many of the principal researchers on NSF social research projects are paid at an annual rate of up to $45,000.

For example, the principal investigator in charge of a project titled "Interpersonal Relations Within the Family" is drawing $7,212 for 2 months' work, which is an annual rate of $43,272.

Another investigator, associated with a study of "Conflict, Justice, and Cooperation," received $7,575 in salary for 2 months' work, which on an annual basis works out to $45,450.

Nice work, if you can get it.

Both these rates of pay are higher than the annual compensation of Members of the Congress and all but the top officials of the executive and judicial branches of the Federal Government.

Such pay rates no doubt contribute to the large size of many grants for studies by the National Science Foundation. I have mentioned some of these studies in earlier speeches, but I want to cite here two six-figure grants as a further illustration.

One of these studies, entitled "Trends in Tolerance of Nonconformity," has cost the taxpayers $350,000.

The other, an experimental demonstration of "interactive television" in Stockton, Calif., carries a price tag of $246,700.

These are not isolated examples. In fact, NSF has made at least two such awards in the millions of dollars, which I shall discuss next week.

But I do not wish to dwell too long on the National Science Foundation. Examples of inappropriate spending by the Government are everywhere.

The Department of Health, Education, and Welfare sponsors a program of faculty research abroad. Among recent subjects explored under this program are "The Growth of Karachi as a Trading Center and Development of the Sindhi Mercantile Community Under British Rule (1843–1947)," for $11,790 and "Changes in the Polish Family," for $5,800.

The Department of Defense operates a joint Army-Navy-Marine Corps band school at the Little Creek base near Norfolk, Va. Although soldiers, sailors, and marines must be proficient musicians before being accepted into their services as bandsmen, the school conducts a 26-week course for entering musicians at a cost of $5.4 million per year.

Navy band leaders receive 1½ years of training at the school—as much as a jet fighter pilot.

The Air Force has an extensive band program of its own and does not participate in the joint school.

While I favor keeping a reasonable number of military bands—an old and honorable tradition of armed forces everywhere—I question the length and expense of this particular training.

The National Endowment for the Humanities encourages work by young scholars under a program called "Youthgrants."

Apparently, youth will be served. One young researcher will receive $7,857 "to conduct intensive field work in San Francisco in order to analyze the multiplicity of ways children at play utilize the urban environment as a theatrical and mythical arena." Translated, I guess that means watching kids play soldier and cops-and-robbers.

I want to restate a caveat which I have issued before about the critique I am making of spending, particularly in the areas of research. I do not judge the merits of the research; hopefully, many of the studies will be valuable.

It is my contention, however, that it is unfair to force the hardpressed taxpayers of this country, laboring under the burden of inflation, to pay for projects with little or no relation to their welfare.

It is essential that we cut Federal outlays in order to fight inflation, and if we are serious about this, we must reexamine closely the way in which the taxpayers' money is being spent.

Mr. President, how much time do I have remaining?

The PRESIDENT pro tempore. The Senator has 8 minutes remaining.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to my distinguished colleague from Idaho (Mr. McCLURE).

Mr. McCLURE. Mr. President, I thank the Senator from Virginia for yielding. I do not need to remind this body or the taxpayers of this Nation of the great service that the Senator from Virginia has provided over the years in calling attention to excessive Government spending and the impact that it has upon our Nation's economy. Other voices are being raised today, but none so consistently as his.

I was quite interested in a recent rating which was issued by the Connecticut Taxpayers' Association, which rated the inflationary aspects of spending votes by the Members of Congress itself, pointing out that Congress bears the responsibility for the spending levels, and that the inflation that results from that spending can be measured from key votes in both the Senate and the House of Representatives.

In my remarks on the economy Wednesday, I referred to this new rating of Members of Congress based upon an inflation index. The Connecticut Taxpayers' Association is to be commended for issuing the rating, because it is quite simply the one and only rating of which I am aware that deals with the most important problem facing our country today.

That same day, the Wall Street Journal addressed itself editorially to the new rating system and drew this conclusion:

> Political democracy is so constituted that the legislators who are most often forced onto the defensive are those who oppose excessive spending and who favor balanced budgets—that is, those who don't just talk about fiscal economy but actually vote for it . . . in short, a big spender who claimed to be motivated by "compassion" could usually prevail over a skinflint opponent who put "budgetary concerns above social needs." But political compassion would probably take on a far different light if it came equipped with some sort of reliable price tag.

Perhaps, Mr. President, this sort of reasoning was behind the legislative proposals advanced by the Senator from Kansas (Mr. DOLE) and the Senator from Wisconsin (Mr. PROXMIRE) that we put a price on each legislative proposal introduced or which is reported out of committee.

In any event, I think it would be well for my colleageus to ponder the editorial, and I ask unanimous consent to have printed in the RECORD the editorial to which I have referred, entitled "Dubious Achievement," and published in the Wall Street Journal of October 2, 1974.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

DUBIOUS ACHIEVEMENT

A group calling itself the Connecticut State Taxpayers Association is on to something, judging from its press release that crossed our desk recently. Instead of limiting its concern to state issues, as in the past, the nonpartisan organization has compiled a unique Spending and Inflation Index.

The way it works, the association analyzed 15 votes in the U.S. Senate and 15 in the House of Representatives, encompassing such things as public works, foreign aid and mass transit subsidies. According to the association's calculations, the 123 Congressmen who voted for every measure voted in effect to spend more than $10 billion, a figure representing about two-thirds of this year's federal deficit. They, along with 36 Senators, were given the association's "Most Inflationary Politician of 1974 Award."

Obviously, votes on issues are not really as cut-and-dried as all that. It's possible to fashion good arguments for most of the 30 proposals in question. Still, the politicians who qualify for the association's award are for the most part precisely those any reasonably informed follower of public affairs would expect. Moreover, we see no good reason why the Connecticut group shouldn't rate Congress by its own fiscal yardstick when the ADA, ACA, AMA, NEA, COPE, and others rate Congressmen according to how closely they adhere to organizational policy lines

But there is a more important reason why a "Spending and Inflation Index" strikes us as potentially useful. Political democracy is so constituted that the legislators who are most often forced onto the defensive are those who oppose excessive spending and who favor balanced budgets—that is, those who don't just talk about fiscal economy but actually vote for it.

There are exceptions, to be sure. Certain congressional districts, even an occasional state, will send a fiscally conservative delegation to Washington. And there are signs the public no longer looks with quite the same favor upon big spenders. But by and large, constituencies are built and maintained by voting to spend more and more on bigger and bigger programs. Few policians ever lost votes by dipping their fist into the congressional pork barrel.

In short, a big spender who claimed to be motivated by "compassion" could usually prevail over a skinflint opponent who put "budgetary concerns above social needs." But political compassion would probably take on a far different light if it came equipped with some sort of reliable price tag.

Mr. McCLURE. I thank the Senator again for yielding.

Mr. HARRY F. BYRD, JR. I am grateful for the kind remarks of my friend from Idaho.

A SUGGESTION FROM THE SHENANDOAH VALLEY

Mr. HARRY F. BYRD, JR. Mr. President, one of the ablest and most thoughtful editorial writers in the State of Virginia is Maj. Gen. E. Walton Opie. General Opie for many years has been editor and publisher of the Staunton, Va., Leader, an excellent newspaper published in the heart of the Shenandoah Valley.

General Opie is not only thoughtful and able, but he is forthright in the expression of his views. He has an interesting and excellent editorial page.

I was particularly impressed with his editorial of October 1, 1974, captioned "Suggestion to President and Nation." In that editorial General Opie expressed deep concern, and indeed alarm, at the economic condition in which the Nation and the world finds itself today. I quote several sentences from his editorial:

Another war is on today. It is oppressing Americans and those of many other countries. The forces waging it are not military, but economic. But they threaten freedom, they are causing privations, with starvation in some countries. They are robbing those who have made savings in their varied forms, and stealing the weekly earnings of those who have families to support.

Then General Opie urges an all-out war on inflation, and makes suggestions to the Congress, to the President, and to the Nation.

While I am not prepared to endorse every aspect of the editorial's suggested program, it does have, I feel, considerable merit. I invite the attention of my colleagues to the editorial. It is thoughtful and well reasoned.

I ask unanimous consent that the editorial entitled "Suggestion to President and Nation," published in the Staunton, Va., Leader, of October 1, 1974, be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SUGGESTION TO PRESIDENT AND NATION

(By E. Walter Opie)

Aren't the people of the United States as patriotic today as they were in World Wars I and II, when there was almost universal recognition that freedom was in jeopardy and any sacrifice to preserve it was justified?

There are some grounds for doubting that patriotism, involving individual as well as national, corporate sacrifice, is not as strong as it was at fever pitch to "save the world for democracy" and to destroy Germany's Nazi regime of murders and slave drivers. These doubts, however, surely apply to only a small percentage of our people.

Another war is on today. It is oppressing Americans and those of many other countries. The forces waging it are not military, but economic. But they threaten freedom, they are causing privations, with starvation in some countries. They are robbing those who have made savings in their varied forms, and stealing the weekly earnings of those who have families to support.

This war, like predecessors, threatens freedom itself, for it could lead to dictatorships under a "man on horseback". Britain may be the first to succumb. Portugal, Italy, and India are not far behind.

The United States could not be sacrosanct to such an enemy as inflation, which has multiple impacts, some which oppress us all. Should it bring a major depression, political upheaval would be the almost certain result, Authoritarian government in some form akin to communism, could follow.

Successive U.S. president have seen some of these dangers and have made war on inflation, but without success. President Ford's first action was to declare renewed war on this enemy. He has just concluded a summit conference of knowledgeable leaders to generate new ideas for the coming offensive, but again there was division as to strategy and tactics.

No war on inflation is going to succeed without predominance of patriotism that will make sacrifices not only acceptable but a joyous surrender of self for a people's victory against a common enemy.

No war on inflation is going to succeed unless the spirit of patriotism is thoroughly aroused and harnessed.

Remember the bond drives which won heavy sacrifices by the people to provide funds for waging the wars against the Kaiser and later against Hitler?

Why not a drive now to obtain signatures to pledges by every worker, whatever the color of collar, to accept without delay a pay reduction of five percent as a starter? Of every labor union, professional, business, industrial and transportation organization, of government leaders, workers and military forces? Of banking institutions to lower interest charges? Of members of Congress?

To arouse and use patriotism, why not organize along the lines of those buy bond drives, with public gatherings, bands, parades, stars of movies, television, theatre and opera, political leaders of states and nation, with supporting campaigns by all communications media?

If there is going to be a real war on an enemy that has become insatiable and relentless, threatening not only the well-being of the nation and its populace, let there be a rousing effort to awaken every citizen to his peril, to the fact that every free man, woman and child is in the same boat, and that only sacrifice and hard work for production such as that which won the country's other wars can win this one.

Unless, Mr. President, your campaign plan includes such measures to awaken the American people, it cannot win.

Mr. HARRY F. BYRD, JR. Mr. President, I yield back the remainder of my time.

The PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina (Mr. THURMOND) is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I believe the distinguished Senator from Connecticut (Mr. WEICKER) had priority, unless an agreement has been worked out.

Mr. WEICKER. I yield.

INFLATION

Mr. THURMOND. Mr. President, we must recognize the gravity of our current economic crisis. If prices keep rising at their current level, the very future of our Nation is in jeopardy. Many of the causes of this inflation can be identified. In 1972, crop harvests in a number of countries were disappointing. In 1973, we saw a dramatic increase in worldwide demand for labor, raw materials, and finished goods. The oil exporting Arab countries then drastically altered the traditional supplies of petroleum products. Wage and price controls that were implemented resulted in economic distortions, and their termination brought a bulge in wages and prices. However, the basic cause I believe, has been continued irresponsible spending by the Federal Government.

Mr. President, contrary to the apparent thinking of some Members of Congress, problems do not go away just because you spend excessive sums of money on them. We live in a world of limited resources and cannot continue the naive assumption that the Federal Government can spend its way to Utopia. Somewhere, someday, someone must bear the consequences. Our citizens are paying the price now with the ever-decreasing value of the dollar.

Mr. President, I would like to examine a few of the contributing factors to inflation for which the Congress has to accept responsibility. Inflation results not only from excessive and irresponsible spending, but from other programs which increase the cost of goods and services to our consumers.

This Congress should be aware that the overburdening maze of regulations cast on our Nation's businesses and industries has resulted in a definite and measurable increase in our inflation. I realize the value of some Federal restrictions in the area of environmental protection and other areas affecting the health and well-being of our citizens. However, we must not forget that this is a balancing process and excessive Federal regulations and restrictions can be inflationary. This is true because the price of goods and services is forced up by the costs of attempting to comply with all these regulations. I challenge my colleagues to consider the full impact of the decisions they make which affect the productivity of our Nation's industries and businesses.

Another factor contributing to inflation is our present food stamp program. This program should be directed only to those who are in need and cannot help themselves, not to those who can and should provide for themselves. Mr. President, I do not believe our present program accomplishes this objective. Furthermore, as I have previously stated on several occasions, the distribution of food stamps to a household where the head of the household chooses to participate in a labor strike should be stopped. The purpose of the food stamp program should not be to subsidize those who have jobs and are able to support their families. How can the Congress continue to ask our taxpayers to bear the ultimate burden of financing a program that is just another example of the excessive spending of Congress? Mr. President, I feel that once again we should take time to reevaluate our present food stamp program in light of the urgent need to curb Federal spending to fight inflation. This is certainly one area in which adjustments can and should be made.

In this same vein, it is my feeling that this Congress has been too susceptible to the power and influence of certain interest groups and has not always exercised sound judgment in making deci-

sions on expenditures. For instance, I have been concerned about the great influence wielded by the labor unions in this country. I feel labor unions can serve, and in many instances have served, useful purposes. However, more and more frequently, I see their influence being exerted to the detriment of our citizens. One example that comes to mind is the recent proposal of amendments dealing with the Occupational Safety and Health Act to the Labor/HEW appropriations bill. The influence and power of the labor unions apparently played a major role in defeating attempts that were made to modify the present law to make it more acceptable, reasonable, less costly, and in line with the objectives of voluntary compliance and safety.

Another example is H.R. 8193, the Energy Transportation Security Act of 1974. Apparently ignoring the inflationary effects that this piece of legislation would have on energy prices in this country, Congress steamed-rolled ahead and passed what, in effect, is a subsidy to the maritime unions. I sincerely hope the Senate will reconsider this legislation when the conference report comes before us in the near future. It has been estimated that this bill will increase our energy costs $25 to $31 billion over the 1975 to 1985 period.

On July 24, 1973, I introduced S. 2237, a bill which would remove from the antitrust laws exemptions now granted to labor unions. Although the hearings that were originally scheduled on this bill have been temporarily postponed in order not to prejudice pending litigation, I am hopeful consideration of this legislation will be continued soon.

We must be careful that power and influence do not become concentrated in any one particular group, be it labor, business or some other group. When special interest groups become so powerful that the interest of our Nation's people and the stability of our Nation is sacrificed for the short-term benefit of a few, we cannot make the difficult decisions to keep our country sound.

I was pleased at President Ford's interest in the recent Summit Conference on Inflation held here in Washington. President Ford has committed himself solidly in the battle against inflation. However, he cannot fight the battle alone. He needs the assistance of this Congress. Quite frankly, I was disappointed at the Senate's adoption of Senate Resolution 394, which overrode the President's decision to defer a pay raise for Federal workers. Congress rejected President Ford's first specific request in his program to counter inflation. As I expressed at that time, I did not feel that Federal employees should be the only ones to make a sacrifice in the fight against inflation. However, I felt this deferral was a necessary first step in the battle we must wage.

In recent years, numerous criticism and concern have been expressed over the waning influence of the legislative branch of our Government as compared to the executive branch. I support a strong legislative branch, on an equal par with the executive and judicial branches of our Government. Such is essential for the proper functioning of our Government. However, those of us who advocate a strong legislative branch must be willing to bear the responsibility for the action, or inaction, in assisting the administration in its efforts to curb inflation. Let us ever be mindful of this responsibility and act accordingly.

We must cooperate with the President to keep Federal expenditures for fiscal year 1975 at or under $300 billion. In my opinion, this is the most important single step we can take. This is a step forward in attaining a balanced budget. I recently joined in support of a resolution proposed by the distinguished Senator from Nebraska (Mr. CURTIS) which calls for a constitutional amendment to require a balanced budget. This proposal is realistic and sensible in light of the absence of fiscal responsibility that has been displayed by the U.S. Congress. It is unfortunate that a balanced budget cannot be attained more readily. As an elementary matter, we cannot, as a country, continue to spend more than we take in.

I believe some action should be taken to relieve the seriously depressed housing market in our country. I have been favorably impressed by the proposal that we consider a Federal tax exemption on interest earned on savings accounts. This would encourage our citizens to save and, at the same time, provide additional money to bolster the sagging housing industry. After taking this step to increase money available for mortgages, the Federal Reserve can continue to maintain control over the money supply.

We, as Americans, must be ever mindful that the employment of conservation measures can be a positive step in combating inflation. Energy conservation was mentioned numerous times at the recent Conference on Inflation as an immediate step we could all take together. As was pointed out at the conference, conservation actually attacks two causes of inflation. It cuts down on excessive demand and increases limited supply.

In addition, I am of the opinion we should consider tax incentives to encourage capital expansion to increase the productivity of our industries, particularly in the energy area. This capital expansion should combat unemployment and provide increased goods and services for consumption. Action should also be considered to increase the productivity of the agricultural sector.

As a final matter, I would like to comment on one point of concern to me. Our fight against the problem of inflation must be a united one. We cannot afford to divert our attention to petty partisan politics on this issue. To those of my Democratic friends who fall to such temptation—there are some and probably will be more—I would only remind them that it has been the policy of the Democratic Party to spend excessively. Big Government, big spending and big deficits, as opposed to fiscal responsibility, has characterized the Democratic Party not the Republican. So let us move together for a day of reckoning is coming, my colleagues. The people of this Nation are not going to stand for a Congress, be it of Republican or Democratic majority, that continually expresses concern over inflation but continually does nothing about it.

Mr. President, I yield the floor.

Mr. McCLURE. Will the Senator yield?

Mr. THURMOND. Mr. President, I am very pleased to yield to the able Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator from South Carolina for the leadership he was shown in pointing out some of the positive things Congress can do as well as some of the things Congress in the past has done to contribute to the inflationary rate we have today.

I think it was Harry Truman who said, "The buck stops here."

The buck stops here on our desks.

I thank the Senator from South Carolina for the leadership he has shown in pointing out that Congress has a responsibility and that Congress can respond to that responsibility.

Mr. THURMOND. Mr. President, I wish to thank the distinguished Senator from Idaho.

I simply want to say that the President of the United States does not authorize money, he does not appropriate money. It is the Congress of the United States that holds the purse strings. We can bring a balanced budget if we want to do it. Congress can stop deficit spending. We, the Senators and House Members, can stop spending more than we take in. The responsibility is ours. It rests on our shoulders.

I believe the people of this Nation are going to realize that, and they are going to hold Congress responsible, and Congress is responsible.

If we want to maintain sound fiscal matters in this Nation, Congress can do it. I challenge Congress, of which I am a Member, I challenge Congress to meet this responsibility and let us balance this budget, quit spending more than we take in. This, I think more than any other one thing, will help to remedy this terrible curse of inflation.

The PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

Mr. WEICKER. Thank you, Mr. President.

THE ENERGY CRISIS

Mr. WEICKER. Mr. President, a year has passed since the Nation grappled with a visible energy crisis.

Visible in the sense that we as Americans were:

Stalled in long lines at gas stations.

Often immobilized by gas shortages across the country.

Forced to pay half again as much for gasoline.

Required to slow down with lower speed limits.

And utilities were constrained to cut output for lack of fuel supplies.

Here it is 1 year later and though the crisis is not as visible, the harsh realities of the world energy situation can no longer be ignored. For the crisis has worsened with sky-high oil prices being exacted by Arab and other foreign producers, resulting in economic disruption

around the world and the threat of economic disaster facing many Western as well as the developing nations.

And what has this Nation's response to the crisis been? Have we developed as one might expect—

Bold initiatives to promote Project Independence?

Full funding for mass transit?

Accelerated development of alternative energy sources as solar energy, nuclear energy?

Mandatory fuel conservation programs to reduce high demand and consumption levels?

No, very sadly, none of these logical responses have been forthcoming.

Rather, in 1 year's time, the only new development is that we have simply accepted dependence on and blackmail by, the Arab States and other foreign producers.

I submit that this Nation cannot afford to resolve any problem in such a fashion. It can no longer ignore the economic and energy facts of life.

Therefore, I am again urging that Congress and the administration deal with hard solutions to a crisis that cannot be compromised.

Specifically I am convinced that we as a nation must reduce our heavy reliance on imported oil and institute stringent fuel conservation measures to hold down demand. And consumption can be reduced successfully, without completely sacrificing the mobility and employment opportunities of the people, only if we are willing to make a full commitment to developing transportation modes other than the automobile.

Let me now discuss three critical areas of realistic action toward solving the energy crisis.

In February of this year, I introduced legislation mandating some form of nationwide gasoline rationing. This proposal did not endorse a coupon system, rather contemplated consideration of a number of fuel conservation programs. At that time I emphasized that we had to face up to the reality of a prolonged energy crisis and effect immediately a program of reduction in a nationwide energy consumption. A rationing system would insure an equitable solution toward reducing consumption by all Americans rather than rationing a few by price, the poor and disadvantaged, those with fixed income, those of low and middle incomes.

Now, Mr. President, I would recommend consideration of a system which would involve the following.

In each family, the first car would be left in the garage 1 day a week, a day chosen by that family, a sticker placed on the windshield so that if the car was on the road that particular day enforcement would take place either by local or State police officials.

If there are two cars in the family, then just the second car would have to remain, again on days chosen by the family, in the garage 2 days a week.

Anything over two cars in the family, the car would stay in the garage 5 days a week.

Now, by that minimal sacrifice by all Americans and done in a way which is best tailored to their particular needs, by that minimal sacrifice, believe me, our demand would plummet, and when the demand plummets the price plummets. When the price plummets insofar as gasoline is concerned, then it also goes down in those areas associated with gasoline, fuels, utility bills, and so on down the line.

I notice mass trial balloons are being flown by the White House. Former Secretary Laird mentioned the possibility of rationing today.

I want the President to know, before he goes before Congress next week, that I am willing to stand beside him and ask that we do engage in some form of sacrifice to resolve this problem.

I am not afraid of rationing, and I am not afraid of asking the American people to engage in some form of sacrifice in order to get us out of the bind we are in.

In that sense, I support this because it is much fairer than raising the prices that we already have. Let us all take a bit of the burden on our shoulders.

Mr. MANSFIELD. Will the Senator yield?

Mr. WEICKER. I am happy to yield to the Senator.

Mr. MANSFIELD. Mr. President, I wish to aline myself with the remarks made by the distinguished Senator from Connecticut.

I am somewhat perturbed at talk about a 10-cent increase in the price of a gallon of gas, a 20-cent increase, some even mentioned a 30-cent increase in the price of gas and that will be most inequitable because it will fall on the people who can least afford to pay and will fall on people who need gasoline in their cars to get them to and from work to make a livelihood.

So I think that would be counterproductive.

Rationing, I think, under the proper conditions, on an equitable basis, would be one way to face up to a situation which I think too many of our people are taking for granted. They have forgotten the days of last winter when they had to wait in lines and scurry around to get 2, 3, or 4 gallons of gasoline at a time.

I am delighted that the Senator has made this statement again. This is not the first time for him. Last year he was advocating the same thing. I received a good deal of criticism, or some criticism, last year when I came out for rationing, especially in my home State. But this is far more preferable than an increase in the price of gasoline. It is far more equitable. It is one way that we can bring about a reduction in the use of energy, and in that way face up at least partially to our responsibilities.

I commend the Senator.

Mr. WEICKER. I thank the distinguished Senator from Montana who has indeed been in the forefront in calling for solutions which, had they been enacted a year ago, would be far less painful than today.

In this Nation today does anyone understand that, whereas we have a horror of additional taxes, what is being paid in the way of increased oil prices to the Arab nations is really just the same as a tax? Only we are not paying it to our own Government; we are paying it to the Arab governments.

I would much rather pay whatever money it is I am going to pay to my own Government to create that quality of life, in terms of energy self-sufficiency, mass transportation and so on, which assures us we will be independent and enjoy mobility.

As I said, this fuel crisis is still with us. In the short run, we are all suffering. It originally affected the poor and those of moderate income, but now all Americans understand the severe effects of inflated prices of oil imposed upon us by the OPEC nations. An international cartel of oil producing nations continues to raise oil prices, fueling the fires of serious inflationary spiral among Western industrial nations in decades, and causing economic dislocation and disruption and suffering worldwide.

As a complement to a program of nationwide energy conservation, I submit that the United States should reinstitute the oil import quota system, this time with strict and well-defined policy directives emanating out of the Federal Energy Administration. Conservation at home and limitation on importation from abroad form a two-pronged attack to eliminate our dependency on foreign oil. Such an effort would further promote the proper economic and political incentives for full exploration and development of indigenous natural resources. A brief analysis of the facts dictates the need for decisive governmental action.

Government and private industry studies indicate a continued rise in domestic energy needs and consumption and a corresponding increase in the dependence upon foreign oil supplies. In 1959 this country's oil imports accounted for roughly 10 percent of its energy needs. Now, the Federal Energy Administration estimates that imports account for 30 percent of our oil needs. At our present rate of consumption, it has been estimated that over 50 percent of our oil requirements will be imported by 1980, at a cost that will surely wreak economic havoc on this Nation and the international financial system. One only need consider our present balance-of-trade problem—a record August balance-of-payments deficit of $1.1 billion—to recognize the devastating dislocation of the energy crisis on all nations.

Along with the attack on our dependency on foreign oil, and a commitment to providing economic and political incentives for exploration and development of U.S. energy resources, we must surely address the issue of alternative transportation systems to move Americans.

Yesterday, a House-Senate conference committee, responding to a threat of a veto, agreed to a comprehensive $11.8 billion program providing Federal assistance for mass transit over the next 6 years. That is less than $2 billion per year and that is not enough to build a decent rail system in Connecticut or Massachusetts, never mind the United States. In fact, the Department of Transportation, noting that the required costs for new rail guideways continue to outpace federally authorized funds, pro-

jected that capital improvements done would require over $3 billion per year through 1990.

In the period of 17 years, between 1950 and 1967, automobile ownership doubled; at the same time, public transportation ridership and facilities declined. Since 1967, the trend has continued. To adequately address this imbalance in our transportation system, will demand a massive Federal commitment to the improvement and modernization of urban mass transit systems, bus and rail.

Therefore, today I am calling for a substantial increase in the authorization of the Federal Mass Transportation Act of 1974; $11.8 billion over 6 years is totally inadequate to do the job that needs to be done. I believe it is essential to double the Federal commitment during this 6-year period. If if should mean increased taxes, and it should, if we are to remain fiscally healthy, then I say fine, because I would rather pay my money to my Government and get a train than pay blackmail to an Arab and get the back of his hand.

It seems to me the time has come to stop the talk, assume the mantle of leadership, and give direction to this Nation in that area which is most responsible for the present economic uncertainties—the impact of international oil cartels.

I think with the programs that I have laid forth here indeed we can do more than just yell invectives at the Arab nations. We give ourselves the necessary muscle to achieve a positive result of this Nation.

Mr. President, I yield back the remainder of my time.

The PRESIDENT pro tempore. Under the previous order, the Senator from Montana (Mr. MANSFIELD) is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I shall take only a few minutes. All I want to do is agree with and follow up on what the distinguished Senator from Connecticut has said this morning. I call to the attention of the Senate that, a week ago this morning, I had the following to say at the opening of the Summit Conference on Inflation. This is a recommendation, a personal recommendation on my own part.

Beginning an equitable rationing system for energy and other scarce materials to the end that dependency on foreign sources of petroleum can be reduced and beginning, too, a stringent conservation system including measures to enforce the speed limit—

Which is supposed to be at 55 miles an hour to conserve gasoline. If you can find anybody traveling at 55 miles an hour today you are looking at someone who is a rarity on the road.

And to bring about a reduced of wastage in the utility and other industrial fields;

I believe the distinguished Senator from Wisconsin (Mr. NELSON) and also the Secretary of the Treasury, Mr. Simon, have indicated on several occasions that we waste somewhere between 30 and 40 percent of the energy which we use. Certainly, there must be some way that we can face up to that loss, do something about it, and, in that manner, also decrease our dependence on imports of foreign petroleum.

I would hope also that ways and means could be found to establish at least a 6-months petroleum reserve in this country, preferably one year, so that we would never again be caught as short as we were last fall and winter when the embargo was placed against the nations of the West by the oil-producing nations of the Middle East primarily, joined in shortly by other oil-producing nations as well.

Mr. President, I ask unanimous consent that a copy of my remarks before the Conference on Inflation, at the Washington Hilton Hotel, Friday, September 27, 1974, be placed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR MIKE MANSFIELD

There have been mini-meetings of this Conference in Washington and across the land. These meetings have been educational and instructive. They have brought to light many views on the state of the economy. But what thing of value to the people of the nation will come out of these meetings? That is the critical question. As one who was among the first to welcome the President's call for this Summit Conference, I must state in all candor that I am not too optimistic about the results.

This conference has had the participation of the foremost economists in the country—in and out of government. They have told us what the inflation and recession are all about—in a hundred versions. The talk has been of micro-economics, macro-economics, econometrics and what not. Of these things, of importance to economists, the public knows nothing. Of inflation, the public knows a great deal. Of recession, the public is learning more and more each day. The public knows, too, that little has been done to stem the inflation or to halt the march of recession, anywhere by anyone.

Everyone recognize that petroleum is one of the main sources of the problems which confront us. Yet, today, we are importing 40% of our petroleum needs as compared to 35% a year ago. The price of crude has skyrocketed and the end is not in sight. In 1972, $4.7 billion was spent on imports; $8.2 billion in 1973; $27 billion plus in 1974. The trend is up, up, up.

For America and many other countries, a major source of inflation lies in these figures, in the manipulated spigot of international petroleum flow. As far as the United States is concerned, the other factor is Viet Nam. Viet Nam is water under the bridge only in the sense that we cannot undo what has already been done. Its terrible cost will extend far into the first half of the next century. It will be paid by the sacrifices of several generations.

Inflation has turned the world of the past two decades upside down. Things that are going up should be coming down and they are not. Retail prices are up by 47% annually. Unemployment is up. Interest rates are up. Medical costs are up by 36%.

Things that are coming down should be going up and they are not. The stock market is down—$500 billion in values have been lost and 31 million people are affected. Real income is down. Our international trade balances have hit a record low. Auto sales are down 22% from a year ago. Unemployment in Michigan stands at 9.3%, compared to 5½% overall in the country. Housing is down 45% and yet in some places, construction wages have been increased by 20%. How can more houses be built and sold when prices are higher, interest rates are higher and construction wages are higher.

I am not an economist and make no pretenses. What is clear to me, however, is that the time for words—micro, macro or whatever is at the end. Words will no longer satisfy the nation. Inflation is social dynamite; walk through any food market in any suburb and take note of the comments. Recession is social dynamite; walk through areas of high unemployment in any city and ask what lies ahead. The divisions among people, among societies, among nations, are on the rise. They will not wait for the "self-adjusting mechanisms" of the economy to self-adjust.

What is the answer? Mostly, we hear talk about the need for a tight Federal budget and tight money. Of course, we need to keep rein on government expenditures, in good times and bad, and especially on the extravagant and the irrelevant. At best, however, the Federal budget is only a fragment of the answer to our difficulties.

It is said, too, the fault lies with the American consumer. Tell that to the grocery-shopper who feeds a family on inflation-eroded wages or a fixed income. Tell it to the home-owner who uses oil to keep out the cold and to the worker who uses gasoline to get to work. The fact is that the *laissez faire* application of the laws of demand and supply no longer correct the economic ills of a society already bound in by a massive complex of intervention built up over decades. The clock cannot be turned back to Adam Smith's Eighteenth Century England.

The nation is in an economic emergency. The people expect government to confront that emergency and to act on it in the general interests of the people. We have not done so and even now, seem to lack the capacity to do so.

Take the problem of energy-supply as an example. A year ago, we talked of crash programs to increase our own production and to develop substitutes to reduce the dependency on imported oil. Congress has appropriated vast funds and stands ready to appropriate more for this purpose. But what have we really achieved with this year of grace? What have we really done? We have allowed the self-adjusting mechanisms of the economy to operate quite freely in petroleum. We have let prices find their own level. In a society grown universally dependent on petroleum that is the cruelest form of rationing. The burden falls heaviest on those with the least income.

The need is for a new action—equitable action—by this Administration in cooperation with the Congress. It exists not only with regard to petroleum but in many other matters. As the President has already been informed, the Senate majority believes that integrated action in seven fields is needed to curb inflation and to halt the recession.

These fields are: (1) budget reductions, (2) wage, prices and profit control, (3) selective monetary credit easement, (4) tax adjustments, (5) positive action to deal with shortages and supplies (6) development of new employment, and (7) readjustment of international policies.

Credit curbs alone are not enough. Budget cutting alone is not enough. Indeed, the budget has already been cut by Congress and will be cut further. But how much inflation can really be squeezed out of the economy by this method and at what price? How much will it cost in lost jobs, lost output, lost public services and business failures?

As for the international economic situation, particularly as it involves petroleum, the Senate and all Americans welcome the call for increased cooperation among consuming nations; and, indeed, there is no reason not to extend the call to the producing nations. We welcome joint policies designed to assure international distribution of

essential commodities. The answer will not be found in confrontation with other nations but in cooperation by our own people with others. Some countries like Italy and the United Kingdom face bankruptcy. A whole corridor of humanity spanning the African Continent is starving. Along with petroleum, these and countless other specific situations are all parts of a world-wide whole. International petroleum problems must be dealt with in that context.

There are many areas that must be addressed in regard to our economic predicament. We must address them candidly and act on their dictates within the framework of this nation's basic tenets. At this time, I offer on my own behalf, for the consideration of this Conference, a nine-point program of Federal action. I do not think we are going to come to grips with the mounting problems of the economy unless we begin to move in the direction of:

1. Establishing, as needed, mandatory wage, price, rent and profit controls.

2. Reviving the Reconstruction Finance Corporation to deal with the credit needs of ailing businesses such as Penn Central, Lockheed and Grumman, Pan American, TWA and many more headed in the same direction; Congress is not the proper forum for specific decisions involving government bailouts;

3. Restoring Regulation W to require larger downpayments on credit purchases and shorter periods for repayment and allocating credit on a priority basis in the light of the nation's critical needs;

4. Beginning an equitable rationing system for energy and other scarce materials to the end that dependency on foreign sources of petroleum can be reduced and beginning, too, a stringent conservation system including measures to enforce the speed limit and to bring about a reduction of wastage in the utility and other industrial fields;

5. Developing a broader system of indexing to the end that the real incomes of wage earners can be tied to real living costs;

6. Moving without delay to establish a Commission on Supplies and Shortages, legislation for which has already passed the Congress;

7. Curbing excessive profits and controlling the flow of investments abroad through the taxing power while conversely, cutting taxes on Americans hardest hit by inflation, those in low and moderate income categories and those on modest fixed income;

8. Creating, without delay, a job-program which puts people to work in public services and elsewhere as necessary, to keep down the level of unemployment; and

9. Working with all nations prepared to work with us to deal with cartel-created shortages in petroleum or other commodities, recognizing that petroleum is only one aspect of the largest question of the interrelationship of the economic well-being of all nations and the stability of the world.

Sacrifices are needed across the board if we are going to restore the nation's economy. In my judgment, the people of this nation are prepared to make those sacrifices. They will do whatever must be done, so long as the burdens are borne equitably. That is the job of the President and the Congress—to insure that the sacrifices are fairly distributed. It is time to put aside the evasions and the circumlocutions. The bell is tolling. There is no need to send to find out for whom. It is tolling for all of us.

Mr. MANSFIELD. Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MONDALE). Without objection, it is so ordered.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, six items on the calendar have been cleared on both sides, and I ask unanimous consent that the Senate proceed to the consideration of the following: Calendars Nos. 1149, 1150, 1152, 1154, 1155, and 1156.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF THE FEDERAL WATER POLLUTION CONTROL ACT

The bill (S. 4073) to extend certain authorizations under the Federal Water Pollution Control Act, as amended, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 104(u) of the Federal Water Pollution Control Act, as amended (86 Stat. 825), is amended by—

(a) striking in paragraph —— "and the fiscal year ending June 30, 1974," and inserting in lieu thereof "the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975,";

(b) striking in paragraph (2) "fiscal years 1973 and 1974" and inserting in lieu thereof "fiscal years 1973, 1974, and 1975";

(c) striking in paragraph (3) "fiscal year 1973" and inserting in lieu thereof "fiscal years 1973, 1974, and 1975";

(d) striking paragraph (4) "and June 30, 1974," and inserting in lieu thereof "June 30, 1974, and June 30, 1975,";

(e) striking in paragraph (5) "and June 30, 1974," and inserting in lieu thereof "June 30, 1974, and June 30, 1975,"; and

(f) striking in paragraph (6) "and June 30, 1974," and inserting in lieu thereof "June 30, 1974, and June 30, 1975,".

SEC. 2. Section 105(h) of the Federal Water Pollution Control Act, as amended (86 Stat. 826), is amended by striking "and the fiscal year ending June 30, 1974," and inserting in lieu thereof "the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975,".

SEC. 3. Section 106(a)(2) of the Federal Water Pollution Control Act, as amended (86 Stat. 827) is amended by striking "June 30, 1974;" and inserting in lieu thereof "June 30, 1974, and the fiscal year ending June 30, 1975;".

SEC. 4. Section 112(c) of the Federal Water Pollution Control Act, as amended (86 Stat. 832), is amended by striking "and June 30, 1974," and inserting in lieu thereof "June 30, 1974, and June 30, 1975,".

REFERRAL OF A BILL TO THE COURT OF CLAIMS

The resolution (S. Res. 364) to refer the bill S. 3799 entitled "a bill for the relief of Mrs. Agnes J. Wong and Doctor Samuel J. Wong, Junior," to the Chief Commissioner of the U.S. Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That bill (S. 3799) entitled "A bill for the relief of Mrs. Agnes J. Wong and Doctor Samuel J. Wong, Junior", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with such bill in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practical date, giving such findings of fact and conclusions thereon as will be sufficient to inform the Congress of the nature and character of the demands as a claim, legal or equitable, against the United States, or as a gratuity, and the amount, if any, legally or equitably due from the United States to the claimants.

ADJUSTMENT OF THE PRICE SUPPORTS FOR MILK

The resolution (S. Res. 418) relating to the need for an increase in the price support for milk was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

Whereas the Agriculture and Consumer Protection Act of 1973 requires that the price of milk be supported for the 1974–1975 marketing year at such level not in excess of 90 per centum nor less than 80 per centum of the parity price as the Secretary of Agriculture determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain production capacity sufficient to meet anticipated future needs; and

Whereas in March 1974 the Secretary determined and announced that the support level for the 1974–1975 marketing year would be at the statutory minimum; and

Whereas milk producers have incurred rising production costs of a magnitude that greatly impair their ability to remain in business, and the Nation is faced with the threat of a massive liquidation of dairy farms; and

Whereas milk producers are in desperate need of an improvement in farm income if the Nation is to retain the dairy industry as a basic source of food production: Now, therefore, be it

Resolved, That it is hereby declared to be the sense of the Senate that, pursuant to the statutory mandate that the price of milk be supported at such level as to assure the maintenance of productive capacity sufficient to meet anticipated future needs, the Secretary of Agriculture redetermine and set the support level at 80 per centum of parity for the remainder of the 1974–1975 marketing year, based on the latest available data, thereby enabling milk producers to offset part of their rising production costs.

EXEMPTION OF CERTAIN ACTIONS OF THE SEC

The bill (S. 2904) to improve judicial machinery by amending subsection (g) of section 1407, chapter 87, of title 28, United States Code, to exempt action

brought by the Securities and Exchange Commission under the Federal securities laws from the operation of that section, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assmebled, That subsection (g) of section 1407, chapter 87, of title 28 of the United States Code, is amended to read as follows:

"(g) Nothing in this section shall apply to—

is a complainant arising under the antitrust laws. 'Antitrust laws' as used herein include those acts referred to in the Act of October 15, 1914, as amended (38 Stat. 730; 15 U.S.C. 12), and also include the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13, 13a, and 13b) and the Act of September 26, 1914, as added March 21, 1938 (52 Stat. 116, 117; 15 U.S.C. 56); but shall not include section 4A of the Act of October 15, 1914, as added July 7, 1955 (69 Stat. 282; 15 U.S.C. 15a);

"(2) any action brought by the United States Securities and Exchange Commission, including any action brought under the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), or the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.)."

ELIGIBILITY FOR MEMBERSHIP IN THE AMERICAN LEGION

The bill (S. 4013) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; August 5, 1964, to August 15, 1973; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any of the governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

HONORARY CITIZENSHIP FOR ALEKSANDR I. SOLZHENITSYN

The joint resolution (S.J. Res. 188) to authorize the President to declare by proclamation Aleksandr I. Solzhenitsyn an honorary citizen of the United States was announced as next in order.

Mr. HELMS. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 93–1216), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the joint resolution is to provide that the President of the United States is hereby authorized and directed to declare by proclamation Aleksandr I. Solzhenitsyn an honorary citizen of the United States.

STATEMENT

On February 12, the noted Russian author and intellectual leader Aleksandr I. Solzhenitsyn was forcibly removed from his apartment by seven Soviet police agents and taken away for interrogation. The whole world knew that Solzhenitsyn had invited the confrontation, indeed, had welcomed it, despite the dangers involved to his family and to his compatriots fighting in the same cause.

That cause is the cause of freedom—the freedom to think, the freedom to write, and the freedom to publish it. It is also the cause for the right to dissent from totalitarian ideology, and the right for those trapped under oppression to move about freely. These are all rights which are fundamental aspects of a free society.

Despite the lack of these rights in Soviet society—indeed, despite the aggressive campaign against them—Solzhenitsyn had no desire to leave his native land. Instead, he wanted to use his special gifts to improve conditions for his fellow citizens. He spoke as an Old Testament prophet, castigating the ills he saw in a sick society. His prophecy first took the form of imaginative literature which aroused millions all over the world, and which won the Nobel Prize for literature. But hidden in secret places he kept the most devastating work of all, composed from the many voices of suffering and of oppression that he had listened to in the transit camps and the prisons and recorded in his memory. These were voices that had been stifled, voices from the grave. But strangely enough, it was only these voices of the dead and dying that kept Solzhenitsyn alive. He blackmailed his oppressors with their guilty secret, threatening to release it if they moved against him. They in turn adopted the very methods which he, as a prophet, had discerned in their political system. They moved against him step by step, drawing the menacing circle tighter.

S.J. Res. 188 is a very simple resolution that proposes a very high honor. It is the highest honor that this Republic can bestow. It is not an honor that can be given lightly or for reasons of passing moment. It would not impose any legal obligations upon him, or prejudice his standing with his native land. Technically, he is a stateless person. This honor is unsought, as his Nobel Prize was unsought. It does not imply that he must accept or reject. It merely places the United States on record, in a most emphatic way, that this nation honors him for his contributions to the freedom of mankind.

It is urgent that we make this gesture. Solzhenitsyn is in the West, but his friends are still under a totalitarian system. And millions more are waiting to see what the United States is going to do. Solzhenitsyn himself has complained of the "spirit of Munich" that seems to pervade the relations of the United States with the Soviet Union, and our amoral policy of ignoring oppression so that we can make deals—deals for food, deals for trade, deals for disarmament.

He said:

"The spirit of Munich has by no means passed away, it was not just a brief episode in our history. I would dare to say even that the spirit of Munich is the dominant one of the 20th Century. The timorous civilized world, confronted by the sudden renewed onslaught of a snarling barbarism found nothing better to oppose it with than concessions and smiles."

This action was taken when the United States conferred honorary citizenship upon Lafayette. It was conferred upon Winston Churchill. Solzhenitsyn, the Nobel Prize winner, has performed meritorious service for freedom at great personal risk.

The honor conferred upon Lafayette, of course, was not done by an act of Congress, because this Congress was not yet in existence. It was done during the period of the Articles of Confederation by the legislatures of Virginia and Maryland.

Sir Winston Churchill was given honorary citizenship by proclamation of President Kennedy pursuant to an act of Congress in 1963. The report of the Committee on the Judiciary set forth the legal ramifications—or rather, the lack of them—when the bill was brought to the floor. The language of this resolution is identical to that of the act passed for Churchill, and the same considerations would apply.

The Committee deems it clear that no legal obligations of citizenship apply, and no tax complications arise. It is an honor pure and simple.

The Committee deems this resolution highly meritorious and, accordingly, recommends favorable consideration.

The joint resolution (S.J. Res. 188) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and directed to declare by proclamation that Aleksandr I. Solzhenitsyn shall be an honorary citizen of the United States of America.

Mr. HELMS. Mr. President, this resolution was introduced on February 19, 1974, a few days after Aleksandr I. Solzhenitsyn had been arrested at his home in Moscow, hustled off to interrogation like millions of victims of the Soviet Secret Police before him, and then, inexplicably, deported into exile in the West. Many events have transpired since then. We have not only the publication in the West of the first section of the great prose masterpiece, the "Gulag Archipelago," but also his "Letter to the Soviet Leaders." We have seen world opinion force the Soviets to reunite his family with him. We are beginning to learn the true dimensions of the humanitarian work which he carried on underground on behalf of the political prisoners and their families, many of them suffering religious persecution for being faithful to the tenets of Orthodox Christianity, Judaism, the Baptists, and other church groups.

His Nobel Prize for Literature, given in 1970, was only a precursor of recognition by the world of the full extent of the man and his character.

Since his enforced exile, he has continued this work, devoting his own funds to the alleviation of distress, and using the secret channels that were established before he left. But above all he continues to write, for his writing is his greatest legacy to the future. I invited him to come to the United States to meet his many friends and admirers here, and I still hope that someday he will come. But for now he has told me that he cannot postpone the writing which is his lifework.

He feels that time has its hand on his shoulder as he works, and that the period

yet allotted to him may be too short. As a man who has escaped from the death of the camps, who has escaped from the death of cancer, and who has escaped perhaps even from execution, he has a set of priorities that places a low value on travel and social intercourse.

But it does not matter. The personal witness of Solzhenitsyn on behalf of human rights has placed him in a category with only a handful of men in history. Millions of people have suffered from oppression, but they have suffered silently. It is Solzhenitsyn who has brought the suffering of the oppressed to the notice of the world. His personal courage in challenging the system of Soviet oppression forced changes even within that closed society, and shamed the West into dealing with the questions of human rights, religious persecution, and freedom.

His "Gulag Archipelago" is more than a publishing phenomenon. As a high work of literature, it cannot be classified as narrative, history, political, economy, philosophy, or memoirs; yet it is all that. It is almost an invented form of literature that somehow makes graphic the horrors of the system at the same time that it makes a fundamental criticism of the principles of the system itself. Solzhenitsyn will not allow anyone to say that Stalinism is an aberration from communism, or that the system can be reformed by trimming certain "excesses" which it has exhibited throughout history.

His critique goes to the heart of Marxism-Leninism itself as a fundamental distortion of human nature. The restoration of human rights will not be accomplished until the Communist system is fundamentally changed.

It is significant that his personal crusade for freedom has been driven by his own fundamental conversion from Marxism to the profound faith of a religious believer.

The instant and phenomenal success of the "Gulag" in every Western country cannot be explained upon the level of literature alone. It contains a message which lay unarticulated in the hearts of free people everywhere. Millions of copies have been sold in many languages. Despite the somber message which it contains, the difficulty of the history—which is unfamiliar except to specialists, the length of the volume, and the originality of style, it has been eagerly accepted everywhere. For it contains a message of hope. And that message is that if, from the depths of despair and from the uttermost degradation of human spirit, there can arise a voice of strength and unflinching courage and criticism, then salvation is possible for a world beset with problems and despondency. The publication of "Gulag" must be described as a humanitarian act.

On another occasion, I have described Solzhenitsyn as an Old Testament prophet telling us of our lapses from God's economy. In the months since he has come to the West, his courage has taught us that we must deal with human rights directly and not sidestep fundamental issues.

It is difficult to assess the impact of a single book, since books are read in solitary by individuals over a period of time. But in that time, a mood of realism has crept over the West, assailed as it is by many troubles both political and economic. But the euphoric attitude has largely evaporated. If the Soviets want to work with us for a peaceful world, it is now clear that immigrants cannot be held hostage, and Christians and Jews cannot be persecuted for not recognizing the atheism of the State.

It is for such reasons that I and the cosponsors of this joint resolution urge that the President be directed to declare Aleksandr I. Solzhenitsyn as an honorary citizen of the United States of America. The report of the Judiciary Committee makes it clear that this is an honor pure and simple and that no further legal ramifications arise. Indeed, it would be beside the point to propose actual citizenship for such a man. Despite his forced exile, his heart remains with the Russian peoples, his spirit abides as a beacon of hope to all the oppressed in the Soviet Union, and the thought is evermost in his mind that one day he will be able to return to his homeland when the Communist tyranny no longer blots out human rights. We therefore propose honorary citizenship. I have communicated directly with Mr. Solzhenitsyn, and he informs me that he would deem it a singular honor and most gratifying, if Congress should agree to this proposal.

Mr. President, it is noteworthy that the support for this measure is broadly based on both sides of the aisle. There are times, as we all know, when the distinguished Members of this body are divided on partisan or philosophical lines, but this is not one of those times. There are 43 cosponsors of this bill, who are united on the issue of honoring this champion of human rights, and I think that their names should be spread upon the RECORD.

Mr. President, I ask unanimous consent that the list of cosponsors of Senate Joint Resolution 188 be printed in the RECORD at the conclusion of my remarks.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

COSPONSORS OF S.J. RES. 188

Mr. Helms, Mr. Bartlett, Mr. Bayh, Mr. Beall, Mr. Bennett, Mr. Bible, Mr. Brock, Mr. Brooke, Mr. Buckley, and Mr. Chiles.

Mr. Curtis, Mr. Dole, Mr. Domenici, Mr. Dominick, Mr. Ervin, Mr. Fannin, Mr. Gurney, Mr. Hansen, Mr. Hart, and Mr. Hatfield.

Mr. Hollings, Mr. Hruska, Mr. Humphrey, Mr. Jackson, Mr. Javits, Mr. McGee, Mr. McIntyre, Mr. Moss, Mr. Nelson, and Mr. Nunn.

Mr. Packwood, Mr. Pell, Mr. Ribicoff, Mr. Schweiker, Mr. Scott, Hugh, Mr. Scott, William, Mr. Stevenson, Mr. Taft, Mr. Thurmond, Mr. Tower, Mr. Tunney, Mr. Weicker, and Mr. Williams.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PASTORE, from the Joint Committee on Atomic Energy, without amendment:

S. 3802. A bill to provide available nuclear information to committees and Members of Congress (Rept. No. 93–1228).

By Mr. NUNN, from the Committee on Armed Services, with an amendment:

S. 3191. A bill to amend title 10, United States Code, to provide that commissioned officers of the Army in regular grades below major may be involuntarily discharged whenever there is a reduction in force (Rept. No. 93–1229).

By Mr. EASTLAND, from the Committee on Agriculture and Forestry, with amendments:

S. 3943. A bill to extend the time for using funds appropriated to carry out the rural environmental assistance program (REAP) and the rural environmental conservational program (RECP) for the fiscal years ending June 30, 1973, and June 30, 1974 (Rept. No. 93–1230).

By Mr. CHILES, from the Committee on Government Operations, with an amendment:

S. 3619. A bill to provide for emergency relief for small business concerns in connection with fixed price Government contracts (Rept. No. 93–1231).

REPORT OF THE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS OF THE COMMITTEE ON THE JUDICIARY (S. REPT. NO. 93–1227)

Mr. ERVIN. Mr. President, on behalf of the Senate Committee on the Judiciary and its Subcommittee on Constitutional Rights, I present the duly approved report of the said subcommittee for the period beginning on March 1, 1973, and ending on February 28, 1974.

The PRESIDING OFFICER. The report will be received and printed.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUGH SCOTT:

S. 4092. A bill for the relief of Edward N. Deutschmann. Referred to the Committee on the Judiciary.

By Mr. RIBICOFF (for himself, Mr. MUSKIE, Mr. CLARK, Mr. PELL, Mr. PASTORE, Mr. MCGOVERN, Mr. WILLIAMS, Mr. CRANSTON, Mr. EAGLETON, Mr. GRAVEL, Mr. MCINTYRE, Mr. MONDALE, Mr. BENTSEN, Mr. TUNNEY, Mr. MANSFIELD, Mr. RANDOLPH, Mr. MCGEE, Mr. HART, Mr. JACKSON, Mr. BAYH, Mr. HARTKE, Mr. HUMPHREY, Mr. MONTOYA, Mr. CHILES, Mr. KENNEDY, Mr. BIBLE, Mr. HUGHES, Mr. ROBERT C. BYRD, Mr. HATHAWAY, Mr. MOSS, Mr. ABOUREZK, Mr. MAGNUSON, and Mr. BURDICK.

S. 4093. A bill to amend the Social Security Act to freeze medicare deductibles. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF (for himself, Mr. MUSKIE, Mr. CLARK, Mr. PELL, Mr. PASTORE, Mr. MCGOVERN, Mr. WILLIAMS, Mr. CRANSTON, Mr. EAGLETON, Mr. GRAVEL, Mr. MCINTYRE, Mr. MONDALE, Mr. BENTSEN, Mr. TUNNEY, Mr. MANSFIELD, Mr. RANDOLPH, Mr. MCGEE, Mr. HART, Mr. JACKSON, Mr. BAYH, Mr. HARTKE, Mr. HUMPHREY, Mr. MONTOYA, Mr. CHILES, Mr. KENNEDY, Mr. BIBLE, Mr. HUGHES, Mr. ROBERT C. BYRD, Mr. HATHAWAY, Mr. MOSS, Mr. ABOUREZK, Mr. MAGNUSON, and Mr. BURDICK):

S. 4093. A bill to amend the Social Security Act to freeze medicare deductibles. Referred to the Committee on Finance.

FREEZING MEDICAL DEDUCTIBLES AND COPAYMENTS

Mr. RIBICOFF. Mr. President, today, I am introducing with Senator CLARK and 31 other Senators a bill to freeze at present levels the medicare deductibles and copayments which patients have to pay. Under present medicare law these payments go up annually as the average daily cost of hospital care goes up. It is unconscionable to force older Americans to bear the brunt of inflation.

It was recently announced that on January 1, 1975, these deductibles will go up again.

There is no doubt that the cost of hospitalization has increased since medicare was enacted in 1965. But we cannot keep putting heavier cost burdens squarely on the shoulders of the poor, sick elderly members of our population whose incomes are frozen.

The sad fact is that the 23 million medicare beneficiaries are paying more of their own money out of pocket for medical expenses than they were before medicare was enacted. Since medicare was enacted, premium and coinsurance rates have shot up 10 percent. It is time to put a stop to this cost burden which hits hardest at those who can least afford it.

The average out-of-pocket payment for Americans aged 65 and over has grown from $234 in 1966 to $311 in 1973, the latest year for which complete statistics are available.

In Connecticut alone over 290,000 Americans enrolled in medicare would have to pay more for hospital care.

If this bill is not enacted, medicare patients will have to pay the first $92 of these hospital bills rather than the first $84.

Because of the increase in the hospital deductible present law also requires other cost increases. Thus, when a medicare beneficiary has a hospital stay of more than 60 days he will be forced to pay $23 a day for the 61st through the 90th day, up from the present $21 per day. If he has a post-hospital stay of over 20 days in an extended care facility he will be forced to pay $11.50 per day instead of the present $10.50. And if a medicare beneficiary ever needs more than 90 days of hospital care, his "lifetime reserve" of 60 days will cost him $46 a day instead of the present $42 per day.

Under our proposal the deductibles would be kept at their present level. That means the 1st day of hospital care will cost $84 instead of $92. The deductible for the 61st to the 90th day will cost $21 instead of $23. The deductible for extended care after 20 days will cost $10.50 instead of $11.50. And the deductible for the medicare lifetime reserve will cost $42 instead of $46.

It is time once and for all to put an end to these additional cost burdens on older Americans who cannot afford to shoulder them.

Our proposal will provide long overdue relief to millions of older Americans.

I ask unanimous consent that the certain tables I have had prepared be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

MEDICARE DEDUCTIBLES AND COPAYMENTS

	Levels as of 1975	Ribicoff-Clark
1st day hospital deductible	$92.00	$84.00
61st–90th day hospital deductible	23.00	21.00
Extended care after 20 days	11.50	10.50
Lifetime reserve days	46.00	42.00

INCREASES IN DEDUCTIBLES SINCE MEDICARE ENACTED

For benefit period beginning in—	Inpatient deductible	61st–90th day	Lifetime reserve days
1966	$40	10	20
1969	44	11	22
1970	52	13	26
1971	60	15	30
1972	68	17	34
1973	72	18	36
1974	84	21	42

Mr. ROBERT C. BYRD. Mr. President, on behalf of the Senator from Iowa (Mr. CLARK), I ask unanimous consent that a statement prepared by him in connection with the bill introduced by the Senator from Connecticut (Mr. RIBICOFF) be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR CLARK

TIME TO FREEZE MEDICARE COSTS FOR ELDERLY

Mr. President, recently the administration announced that copayments and the deductible under medicare hospital insurance would have to be increased by almost 10 percent in 1975 due to rising costs in hospital care. In order to prevent this substantial increase in the cost of health care for older Americans, Senator Ribicoff and I are offering a bill to freeze the medicare copayments and the deductible at the current levels.

If this measure is not enacted, the deductible—the amount a hospital patient must pay before medicare takes over—would increase from $84 to $92 in 1975. Also, the coinsurance charges—the portion of costs that patients must pay for hospital stays longer than 60 days and for nursing home care after 20 days—would likewise increase by almost 10 percent in 1975.

What this means is that medicare beneficiaries will have to pay $23 a day instead of the present $21 a day for the 61st through the 90th day in the hospital, and $46 a day instead of the present $42 a day for the 91st through the 150th day in the hospital.

For a post-hospital stay in a nursing home of more than 20 days, the coinsurance would be $11.50 a day compared to the current cost of $10.50 per day, as this table indicates:

IMPACT OF RIBICOFF-CLARK LEGISLATION ON MEDICARE COSTS

	Levels for 1975	Proposed levels under Ribicoff Clark proposal
1st day of hospital deductible	$92.00	$84.00
61st to 90th day hospital co-payment	23.00	21.00
91st to 150th day hospital co-payment	46.00	42.00
Nursing home copayment after 20 days	11.50	10.50

Almost one out of every four aged and disabled medicare beneficiaries is expected to be hospitalized next year, a total of over 5½ million people. We can be sure that the scheduled increase would fall hardest upon the aged and infirm—those individuals who already have been the hardest pressed to bear the burden of inflation.

Because of inflation, many people are being forced to eliminate even those items essential to a minimum standard of living. Older people have to pay a disproportionate amount of their income for essentials like food, fuel, utilities and health care, and these are the very items which have led the ever-increasing consumer price index. If we allow the medicare deductible and copayments to rise, we will increase their suffering.

To avoid that prospect, we must act favorably and expeditiously on this vitally important measure.

This legislation will not cost the taxpayers more money. Neither the wage base nor the payroll tax under social security would have to be increased. The unusually large assets of the hospital trust fund could cover the estimated cost of $70 million for 1975 without impairing the long-term soundness of the program.

It should also be pointed out that the deductibles and coinsurance costs under medicare have risen tremendously over the past 6 years. At the end of 1968, for example, the hospital deductible was $40. Currently it is $84. If we allow the cost to go up to $92 in 1975, the rate will have risen well over 100 percent.

Especially now, during this time of double-digit inflation, this would be intolerable for all too many of our older citizens. I urge the adoption of this bill.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 3418

At the request of Mr. ERVIN, the Senator from Washington (Mr. MAGNUSON), was added as a cosponsor of S. 3418, to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management systems in Federal agencies, State and local governments, and other organizations regarding such information, and for other purposes.

S. 3619

At the request of Mr. MATHIAS, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 3619, a bill to provide for emergency relief for small business concerns in connection with fixed price Government contracts.

S. 3921

At the request of Mr. Moss, the Senator from Oklahoma (Mr. BELLMON), the Senator from Missouri (Mr. EAGLETON), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of

S. 3921, a bill to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes.

S. 3979

At the request of Mr. MANSFIELD, the Senator from New York (Mr. JAVITS) and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 3979, a bill to increase the availability of reasonably priced mortgage credit for home purchases.

S. 3985

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3985, the Anti-Dog-Fighting Act.

S. 4021

At the request of Mr. HUGH SCOTT (for Mr. DOMINICK), the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 4021, a bill to exclude from the gross income of individuals the interest on an amount of savings not in excess of $20,000.

S. 4040

At the request of Mr. HARTKE, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 4040, a bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension, and dependency and indemnity compensation, to increase income limitations, and for other purposes.

S. 4079

At the request of Mr. NELSON, the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. TUNNEY), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 4079, the Emergency Public Service Employment Act of 1974.

S. 4081

At the request of Mr. HRUSKA, the Senator from Wyoming (Mr. HANSEN), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Vermont (Mr. STAFFORD), and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of S. 4081, a bill to redesignate November 11 of each year as Veterans Day and to make such day a legal public holiday.

SENATE JOINT RESOLUTION 240

At the request of Mr. ERVIN, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of Senate Joint Resolution 240, requiring full public access to all facts and the fruits of all investigations relating to Watergate and full public access to all papers, documents, memoranda, tapes, and transcripts during the period January 20, 1969, through August 9, 1974.

SENATE RESOLUTION 419—SUBMISSION OF A RESOLUTION TO ESTABLISH A SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

(Referred to the Committee on Government Operations.)

Mr. MATHIAS (for himself and Mr. MANSFIELD) submitted the following resolution:

S. RES. 419

Resolved, That (a) there is established a select committee of the Senate to be known as the Select Committee to Study Governmental Operations with Respect to Intelligence Activities (hereafter referred to in this resolution as the "select committee").

(b) The select committee shall be composed of eight Members of the Senate equally divided between the majority and minority parties to be appointed by the President of the Senate.

(c) The select committee shall select two co-chairmen from among its members, one from the majority party and one from the minority party. A majority of the members of the select committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

(d) For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

SEC. 2. It shall be the function of the select committee to conduct a study and investigation with respect to all matters relating to (1) the operations of the United States Government with respect to domestic and foreign intelligence activities, and (2) the past effect and future role of such activities of agencies of the United States Government within the United States and overseas.

SEC. 3. (a) for the purposes of this resolution, the select committee is authorized in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amnded, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The co-chairmen of the select committee shall preside over meetings of the select committee, except that (1) in the absence of one of the co-chairmen, the other co-chairman may preside, and (2) in the absence of both co-chairmen, any other member of the select committee designated by both co-chairmen may preside.

(c) Either co-chairman of the select committee or any member thereof may administer oaths to witnesses.

(d) Subpenas authorized by the select committee may be issued over the signature of either co-chairman, or any other member designated by the co-chairmen, and may be served by any person designated by the co-chairman or member signing the subpena.

SEC. 4. The select committee shall make a final report of its findings, with respect to such period together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than two years after the date this resolution is agreed. The select committee may also submit to the Senate such interim reports as it considers appropriate. Upon submission of its final report, the select committee shall cease to exist.

SEC. 5. (a) From the date this resolution is agreed to, through February 28, 1975, the expenses of the special committee under this resolution shall not exceed $325,000, of which amount not to exceed $75,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.

(b) The select committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to the study and investigation for which expenditures are incurred out of funds made available under this section, to the Senate at the earliest practicable date, but not later than February 28, 1975.

SEC. 6. Expenses of the select committee under this resolution shall be paid from the contingent fund of the senate upon vouchers approved by the two-cochairmen of the select committee.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 399

At the request of Mr. ERVIN, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of Senate Resolution 399, urging full public access to information regarding the Watergate investigation.

SENATE RESOLUTION 418

At the request of Mr. GRIFFIN, the Senator from New York (Mr. JAVITS) and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of Senate Resolution 418, relating to the need for an increase in the price support for milk.

AMENDMENTS SUBMITTED FOR PRINTING

BROADCAST LICENSE RENEWAL ACT—H.R. 12993

AMENDMENT NO. 1956

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN. Mr. President, on behalf of myself and Senators TUNNEY, MANSFIELD, HUGH SCOTT, HOLLINGS, COOK, BEALL, HRUSKA, BAYH, YOUNG, ALLEN, STAFFORD, BARTLETT, HUMPHREY, CURTIS, MONDALE, CHILES, and NUNN, I am today introducing an amendment to H.R. 12993, the Broadcast License Renewal Act, to authorize the Federal Communications Commission to extend the broadcast license term to a maximum of 5 years. A similar amendment was offered on the House floor and was approved overwhelmingly by a vote of 308 to 84.

This amendment is a simple one. At present the maximum license term is 3 years and H.R. 12993, as reported by the Senate Commerce Committee, makes no change in this situation. My amendment merely provides that the FCC shall have the authority to grant and renew broadcast licenses for a term of not to exceed 5 years. Although this amendment will lengthen the maximum license term, it will in no way inhibit the authority of the Commission to grant licenses for a shorter period.

At the outset, the very focus of the Broadcast Renewal Act ought to be made clear. This is a bill which strikes pri-

marily at the heart of a small industry. While there can be little doubt that broadcasting has its giants, the plain fact of the matter is that the mass of the Nation's 8,000 licenses are essentially small businessmen. And unlike other small businessmen in this country their's is a fully regulated industry, imposing on even its smallest outlet a whole range of bureaucratic responsibilities.

Mr. President, the lengthened license term is strongly recommended by the principles of good business. With the addition of 2 years to his license period, broadcasters will have a more reasonable period within which they can plan the financial future of their business. Increasingly heavy capital investments can be amortized over a more reasonable period of time, capital investments that are necessary to improve broadcasting service to the community. This bill recognizes the instability that has developed in the broadcasting industry as a result of the regulatory and judicial events of the last decade; and so will the lengthened license term provide the kind of stability necessary for financial institutions to lend the money for improved technological development of broadcast facilities.

While the renewal burden on the licensee has increased in recent years, a like increase in the workload of the FCC has been quite evident. It is not uncommon for the renewal application to consist of several hundred pages, all of which must be weighed and assessed by the staff of the Commission. While the paperwork burden can undoubtedly be decreased somewhat, it is nonetheless unrealistic to expect it to slacken to any significant degree. Comprehensive filings on all aspects of station operations will continue to be required so that the Commission will have the information it needs to adequately assess whether the licensee is fulfilling its duty to perform for the public interest, convenience, and necessity.

However, if a licensee were required to seek renewal every 5 years, other than every 3 years, a corresponding drop in the work load of the FCC could be expected with a consequently improved review of each individual application. Instead of processing 2,800 applications each year, only about 1,700 would need to be submitted and reviewed annually. Instead of an increasingly burdensome process for both applicant and commission, more time and energy could be spent on improving programing in the public interest. This would assure a savings of money and manpower for the taxpayer, yet the FCC would, as I have noted, retain the ability to inquire into problem areas on a continuing basis.

Moreover, permitting a 5-year term for broadcast stations will conform the length of the term to that of other communications services such as common carriers and cable systems.

In sum, Mr. President, with this amendment we reduce the staggering time, paperwork, and personnel costs of the renewal process; we allow more time and talent to be invested in community programing needs; and we improve the FCC's ability to review each individual license application. I urge the Senate's support of this amendment and ask unanimous consent that Senator TUNNEY's separate views in the report of the commission on commerce on this matter be printed at this point in the RECORD.

There being no objection, the views were ordered to be printed in the RECORD, as follows:

SEPARATE VIEWS OF MR. TUNNEY

The wide dissemination of ideas is crucial to the proper functioning of a democratic society. The Federal Communication Commission with its oversight and licensing powers over the airwaves plays a critical role in this process and must be vigilant in assuring the excellence and public service of the broadcast media.

I believe the license renewal legislation approved by the Senate Commerce Committee has gone far in clarifying the Federal Communications Commission's responsibilities in this area.

With a tightened definition of the F.C.C.'s regulatory role, there should also be consideration of developing more orderly procedures for license renewals.

Since first entering Congress 10 years ago, I have felt that the short three year license renewal period for broadcasting should be extended to five years. As a Congressman, I introduced legislation in 1968 which would have provided for this longer period. A five year renewal period, I believe, would allow the FCC to more carefully scrutinize and review broadcast licenses.

The license renewal process, which at one time was a fairly simple and straightforward procedure, has become extremely complex and time consuming. Enormous amounts of information and filings are now required by the F.C.C. This burden weighs particularly heavily on the many small broadcast stations on which millions of Americans depend for news and public service broadcasting throughout our Nation.

Also, the mountains of paperwork generated by this process have tended to clog the functioning of the FCC. Right now, there are close to one-hundred, thirty contested cases backlogged in the FCC. Some of these cases will take months and possibly years to decide.

A five year renewal period would immediately ease the FCC's burden. It has been estimated that it would reduce the number of applications which the Commission must review from approximately 2,800 a year to about 1,700. This extensive but more limited number of renewals would allow the FCC to focus its efforts on a more thorough and expedited review of each applicant.

Additionally, it will permit stations to eliminate frequent submittals and concentrate more on public service and on plans for capital expenditures and growth to meet community needs.

The House already has voted overwhelmingly for the five year renewal period and it is my hope that the Senate will concur in this decision.

Tight entry and renewal procedures plus a reasonable renewal period are the right way to assure the best possible programming for the American public.

JOHN V. TUNNEY.

SUPPLEMENTAL APPROPRIATIONS, 1975—H.R. 16900

AMENDMENT NO. 1957

(Ordered to be printed and to lie on the table.)

EMERGENCY PUBLIC SERVICE JOBS AMENDMENT

Mr. HUMPHREY. Mr. President, the U.S. Department of Labor today announced that the Nation's unemployment rate for September increased to 5.8 percent from the August level of 5.4 percent. This represents more than a 25 percent increase from the 4.6 percent level of last October.

The economy is in retreat. The sharp rise in unemployment to 5.8 percent means nearly 5½ million Americans out of work. We have jumped out of the "economic frying pan and into the economic fire."

The Dow-Jones average on the stock market is below 600 for the first time in 12 years; the Cost of Living Index continues to soar; our foreign trade deficit is out of control; and the forecast for the months ahead is for a continuing sharp rise in prices and more unemployment.

These are the sad economic facts. We are in a serious recession. We are slipping dangerously close to a depression.

The President will have a message for us Tuesday. Bold action is needed with specific proposals designed to check the growing inflation, stop the rise in unemployment and, to turn the economy around.

We simply must have:

A massive program of public service jobs;

Tax relief for low- and middle-income families;

An all-out effort to conserve fuel and mount a massive research program for alternative fuel sources, in particular, solar energy;

Allocation of credit for housing, small business and agriculture, coupled with a determined Government policy to reduce interest rates; and

Immediate implementation of the Wage-Price Stability Council.

These are the minimums. There can be no delay. We are entering a long, cold winter of our economic discontent, unless we buckle down, exercise self-discipline, and have strong action by the Government, with all-out cooperation from business, labor, and consumers.

As a first step in reversing the disastrous trend in employment, I am today submitting an amendment to the supplemental appropriation bill to immediately appropriate an additional $1 billion for public service jobs. It is estimated that this measure alone can create 167,000 new jobs beginning as soon as November 1. The machinery is there; all we need is to have the will to respond to the desperate plight of the swelling ranks of unemployed Americans.

The emergency public service jobs proposal I am introducing today is offered as an amendment to H.R. 16900, the supplemental appropriations bill which is expected to come to the floor of the Senate for action next week.

Mr. President, the time for action is at hand. We have done enough talking, it is time to deliver.

TEN-YEAR TERM FOR THE DIRECTOR OF THE FBI—S. 2106

AMENDMENT NO. 1958

(Ordered to be printed and to lie on the table.)

SENATE CONFIRMATION OF ADMINISTRATOR, SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION (SESA)

Mr. PROXMIRE. Mr. President, I send to the desk an amendment to S. 2106 which would provide that the appointment of the Administrator of the Social and Economic Statistics Administration, SESA, in the Department of Commerce, made on or after the date of enactment of this act, be subject to the advice and consent of the Senate. I ask unanimous consent that the reading of the amendment be dispensed with.

The Administrator of SESA is a very important post. At least 16 of the most important and sensitive statistics the Government produces are prepared by this agency. They are equaled in importance only by the unemployment figures and the Consumer and Wholesale Price Index.

The first reason, therefore, that this appointment should be with the advice and consent of the Senate is not only its fundamental and intrinsic importance but that its counterpart, the Commissioner of the Bureau of Labor Statistics is confirmed.

Second, the Administrator of SESA has under him the Census Bureau whose Director must be confirmed by the Senate. We now have the anomalous situation where the subordinate is confirmed but the boss is not.

The third, and most important reason why this post must be confirmed is the issue of the reliability and credibility of the Government statistics.

There is a credibility gap with respect to our statistics. This was caused by the appointment by President Nixon of wholly unqualified people to the post of Administrator of SESA and Director of the Census. Further, at the BLS, key professional personnel were fired, the public press conferences were eliminated, and ultimately the Commissioner himself, Mr. Geoffrey Moore, was sacked by the White House even though he had done a highly professional and honorable job.

UNQUALIFIED HEAD

Mr. Edward Failor, who now holds the job as head of SESA is unqualified for it. He has no statistical background whatsoever. He came to the job directly from CREEP—the Committee to Re-Elect the President. Prior to that he was Chief of the Office of Assessment and Compliance of the Bureau of Mines where his stewardship received a stinging rebuke from the General Accounting Office. His only other qualification is that he was once legislative lobbyist for the Association of Coin Operated Laundries in Iowa.

The bill I originally introduced, S. 2020, on this issue, would have required confirmation retroactively. That, of course, is a contentious and argumentative and controversial point. I think Mr. Failor should still have to be confirmed. But such bills passed by Congress in the past have been vetoed. Therefore, I have made my prospective so that it would only affect future appointees to the office of Administrator of SESA, in order to avoid any controversy about the point.

VITAL STATISTICS

We are now in a period when Government statistics with respect to unemployment, prices, the growth of the GNP, expenditures for new plant and equipment, and many others, are not only important in themselves but may be highly political and contentious issues.

What we must have in all of our governmental statistical agencies is the highest confidence that the statistics are as accurate as highly trained and highly competent professional men can make them.

When political hacks are put in charge of them, then let the country beware. My amendment would provide merely that Congress would have some say in these matters. And that, itself, may well bring the appointment of more highly qualified and professionally competent men to these positions.

We have just witnessed men at the highest levels of government committing criminal acts for the purpose of winning an election. These included burglary, bugging, breaking and entering, perjury and other acts.

But think how much simpler it might be to jigger the unemployment figures or the cost of living figures in a period in which there was a hotly contested election. It would be done without resorting to crime. While it is a crime for citizens to give false information to their Government, it is not a crime as yet for the Government to give false information to its citizens.

An election could be influenced or rigged without resorting to criminal acts merely by manipulating the crucial figures. The temptations are even greater than resorting to crimes and the consequences might well be more widespread.

For all these reasons we must have highly competent professionals in charge of the Government's statistics. And one way to help insure that is to make such appointments subject to the advice and consent of the Senate.

I therefore urge the adoption of my amendment providing that the Administrator of SESA be confirmed by the Senate.

ADDITIONAL STATEMENTS

POLITICKING FROM THE BENCH

Mr. ERVIN. Mr. President, over the last few years, Americans have properly expressed concern that members of the judicial branch should not engage in extrajudicial activities that serve to bring into question their necessary objectivity as judicial officers. This concern has been prompted by a series of events which sometimes reflect merely bad judgment, but other times come perilously close to a violation of the standards of judicial ethics.

The recent examples are familiar to most of us. Judges have often served as members of nonjudicial government bodies, thus confusing their role as judicial officer with those of the executive. They have counseled Presidents on matters of policy or legislation or politics. On one occasion, extrajudicial activities led to the call for the impeachment of a justice of the Supreme Court, and was a factor in his eventual forced resignation.

We have also seen examples in which members of the High Court have been charged with lobbying against bills pending in Congress. The charges have been that this was done quietly, or by the actions of a subordinate assistant, or by thinly veiled speeches on presumably "judicial" topics.

The picture of a Supreme Court Justice using his prestige and that of the High Body it is his honor to represent to campaign on political matters is exceedingly disturbing. A Supreme Court Justice brings the weight of his prestige to any observation on current affairs and can be highly influential. His words are picked up by the press, and are given currency far beyond those of a less exalted official.

At the same time, the entrance of a Supreme Court Justice into a matter of legislative controversy brings his own objectivity into serious question. One wonders, sometimes out loud, whether the Justice's future decisions on the subject will be objective or merely a reflection of his personal views on the legislation. And when the Justice is the author of decisions in the area which are already highly controversial, even greater question is raised.

Against this background, Mr. President, I wish to express my dismay over reports in this weekend's newspapers about speeches of a Supreme Court Justice which appear, from the reports, to be expressing opinions on legislation now before both Houses. Just last week the House and Senate Government Operations Committees reported legislation to protect privacy. While most legislators support the concept of privacy, there is no question that the two bills are extremely controversial in their approaches and may be the subject of much dispute.

At the same time, the Judiciary Committees are actively considering legislation to control the unrestricted use and dissemination of arrest records. It goes without saying that this legislation is controversial. Some law enforcement officials have expressed concern over the legislation. While I believe their concerns are overstated and well-answered by the bill now in the Constitutional Rights Subcommittee, major issues of public policy and state control over law enforcement will have to be resolved before the legislative process is complete.

For a member of the Supreme Court,

then, to join in this debate is highly inappropriate. His intercession at any time would be questionable, but to speak out publicly when each of the bills is at a critical legislative turning point, is all the more unwarranted.

I have as yet only the press reports of those remarks. If accurate, and I hope they are not, they demonstrate the extent to which the Justice has interjected himself into the nonjudicial sphere. The article appeared in the Sunday New York Times, September 29, 1974. The justice's own words appear in the quotes that follow.

He observes, quite properly, that privacy is threatened by increased Government activity in social programs. Then he says that we should repeal these programs rather than enact special privacy laws.

What I have in mind is that the fight for retention or expansion of privacy may be waged in the legislative halls not in terms of measures which would increase privacy but detract from effective law enforcement, but head-on against the expansion of substantive government regulation of our lives.

A logical corollary of such an effort would be a counter-movement dedicated to repeal of regulatory laws currently on the books.

And he noted that "some responsible opinion" favors decriminalizing prostitution, procuring, and the use of marihuana.

Without endorsing such proposals, he believed—

A very compelling argument can be made that it is preferable to repeal a law which makes a particular act criminally punishable, rather than keeping the law on the books but making it very difficult to enforce against those who transgress it.

On the subject of the arrest record legislation, the article says the Justice had little sympathy for those who would restrict the circulation by the Federal Bureau of Investigation of arrest records to local law enforcement agencies on the ground of privacy. An arrest, he said, "is not a private event."

Then, quoting from the speech:

I think it would be a rather bold person who would suggest that if one of the suspects in an investigation of a serious crime had a record of several arrests for similar offenses, that sort of information would not be of significant help to the investigating authorities.

The question of whether arrest records should be made available, outside the criminal justice system, to public and private employers "seems to me to be a closer one."

To me the question posed by these situations is not an issue of core privacy since I think as a policy matter it is quite justifiable for the Government to collect arrest data. The question is simply whether or not the Government ought to spend its funds and use its manpower to supply this information to inquiring potential employers.

Mr. President, I think it would be highly in order for this Justice to keep off the legislative grass and, to mix a metaphor, stick to his own judicial knitting. Participating in legislative policy matters is improper and unseemly. If the judicial business is not exciting enough or leaves too much idle time on his hands, then perhaps any judge feeling this way ought to take off his robes and run for Congress. Then he can politic all he wants.

HARD TIMES FOR THE LIVESTOCK INDUSTRY

Mr. HANSEN. Mr. President, many segments of our economy are depressed and suffering under the heavy burden of inflation. The housing industry is depressed, the financial market is in the doldrums, and the people are frustrated and frightened by the turmoil in the economy.

The farmers and ranchers of this country are being squeezed unmercifully by skyrocketing costs on the one side, and depressed prices for their products on the other. It is concerning the critical plight of agriculture that I want to speak today, Mr. President.

Recently, a Torrington, Wyo., dairy farmer wrote:

We are paying inflation prices for feed, but getting depression prices for our milk. We are currently going behind $1,000 to $1,500 per month because of the high cost of producing milk. So, of course, at that rate, we will have to sell out at a great loss.

A cattle producer writes:

I am now a foreman on a ranch and own 20 cows, but with the price as it is now, the cows I purchased last fall for $400 per head are worth less than $200 per head this year. Their calves are worth $80 to $100 per head and the interest on 20 cows is $750. Please tell me how I can stay in the business.

Says a Greybull, Wyo., woman:

My folks, who are ranchers in the Ten Sleep area, attended a sale yesterday. Calves were selling for 27 cents a pound, yearlings were selling for 15 cents a pound. When meat prices in the grocery store range from 89 cents to $2.29 per pound, someone is making lots of money and it definitely is not the rancher.

PRODUCERS GETTING LESS—NOT MORE

It is a fact, Mr. President, that cattle producers are getting this fall half or less for their animals than what they were getting a year ago. It might be possible for producers to hitch up their belts another notch and ride it out if their expenses did not increase. But they are in double trouble, because not only are they receiving way less for their livestock, they are having to pay double and triple costs of operating.

The price for a ton of fertilizer has doubled in a year's time. Baling wire, when it can even be obtained, has tripled in price in most areas. The cost of fuel to run equipment is higher. A tractor which cost between $11,000 and $12,000 last year now brings $15,000 to $16,000. And, because they are consumers like everyone else, farmers and ranchers are paying, in addition to these unbelievably high operating costs, the greatly increased prices everyone else pays for the ordinary goods and services they require to exist.

Everyone, of course, is adversely affected by the current burden of inflation and by the economic dislocations it is causing. Inflation decreases the value and purchasing power of every dollar of income.

Some people are fortunate enough to receive increases in income sufficient to offset the purchasing power lost to inflation. Those not so fortunate must rearrange their budgets to compensate for the erosion of income inflation causes. But few are faced with the nearly hopeless situation of seeing their income cut in half at the same time their expenses double.

WHO'S GETTING THE MONEY?

Livestock producers reeling from the double-whammy of lower income and higher expenses tend to get cranky with those who, noting the price of meat in the supermarket, assume the producer is getting rich at the expense of the consumer.

The fact is, along with consumers, these producers would like to know who is getting the rather substantial difference between what they receive for the animals, and what is charged at the retail level. And they would like consumers to recognize the fact that, not only are they receiving only a tiny fraction of what is charged at the retail, they are getting half what they got last year while the price consumers pay has remained the same or increased.

Who is getting the increasing difference between the producer's price and the retail price? The middleman, say some. Who is the middleman? He is the feeder; the packer; the power company serving the packer; the processor; the trucker whose wages may have just increased; the fuel dealer who sells gas to the trucker's boss; the meatcutter; the checkout girl; and on and on. There is no middleman. There are hundreds of middlemen. So complex are the processes that take place between the ranch and the consumer's table that the Federal Trade Commission recently announced plans to investigate the reasons for the growing difference between what the producer receives and what the consumer pays.

DEPRESSED DAIRY INDUSTRY

Similarly for dairy farmers, whose income is subject to a government program, the costs of operating — feed, equipment, replacement cows, fuel, et cetera—have doubled and tripled in the past year, while income has remained the same or decreased. It may be possible to continue an operation for a short time at no profit, but it is not possible to continue when there is a loss every month. This is the situation facing many dairymen, including the many who testified recently about their problems before the Senate Agriculture Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices.

A Wyoming dairyman, in a recent letter to Secretary of Agriculture Earl Butz, expressed the problem in terms of the future:

The average age of dairymen, I understand, is about 50 years. With no incentive to bring young men into this business and with lots of us in the 50-year bracket going broke, I see a very dark future for the consumer in the years ahead. She will think the price she is paying now is nothing compared to what it will be if we rely on foreign markets.

Mr. President, whether we in Congress represent primarily agricultural States, such as Wyoming, or heavily urbanized areas of the country, we must concern ourselves with the well-being of the agricultural industry and with the present critical problems of this industry. All 213 million of us depend on this industry

for food. In addition, millions of Americans owe their jobs to this industry, and many, many communities with agricultural economic bases will suffer in direct proportion to the ill fortune of agriculture. Millions of people in other countries depend on American agriculture.

WHAT CAN BE DONE?

Constructive and reasonable efforts to help farmers and ranchers survive their present problems will benefit not only the farmers and ranchers, whose immediate livelihood is at stake, but will benefit as well each one of us, because only if there is an adequate supply of food will the American standard of living prevail. It is in the national interest—indeed, in the interest of mankind—to insure a healthy and strong agricultural industry in the United States, and the present depressed condition of the industry must be reversed.

Every one of us in the Senate has heard from ranchers and farmers back home who are in serious trouble, and who look to Government to do something to stabilize the economy. In certain instances, it is more a case of what Government should not do, rather than what it should do. No livestock producer has forgotten the chain of events beginning with a ceiling on meat prices. Indeed, it likely could be said that action triggered the present problems.

In 1972, when cattlemen were finally getting for their product a price equal to what they had received 20 years earlier, the issue of increased foreign imports reared its ugly head. Today, the United States is the only major beef-consuming nation in the world that has not acted to reduce the influx of cheap imports. Foreign beef that normally would have gone to other nations now is flooding American markets, because other countries are more inclined to consider the impact of these imports on their own livestock industry.

There is no single, trouble-free answer to the problems of livestock producers. There is no magic solution that could be rushed through the Congress today, in order to solve the problem tomorrow. Indeed, the problem is symptomatic of decades of deficit spending by Government and unwise and hurtful Government programs, such as wage and price controls.

There are, however, some actions I believe Government should take immediately which would put us on the right road to the eventual solution to the problems plaguing the livestock industry today.

The administration should act now to stem the flow into this country of certain agricultural imports, such as red meat and dairy products. The administration should observe the intent of the 1964 meat import quota law, and the Congress should act now on pending legislation to close the loophole in the law which Presidents have used to import millions of pounds of meat above the quota levels established by the law.

Every year since I came to the Senate in 1967, I have tried to push legislation to close this loophole in the 1964 meat import quota law. This year, when the problems of feeders were so serious and they finally awakened Washington to the fact they were losing $100 to $200 per head, nearly half the Senate signed a letter to the President urging an immediate halt to meat imports. What we should do is approve pending legislation that would require the President to honor the quota law. We are past the letter-signing stage.

Further, the Congress can and must act immediately to drastically reduce Government spending, which would help reduce inflation. The combined approach of curtailing the flow of imports of meat and dairy products, and actually reducing spending, would go a long way toward helping restore the faith and confidence of people in agriculture toward their Government. These steps would help demonstrate that Government is cognizant of agriculture's importance, that Government realizes the problems now existing.

Mr. President, I ask unanimous consent that a series of letters from Wyoming livestock producers and dairymen, and a series of articles dealing with the current problems of the industry, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letters and articles were ordered to be printed in the RECORD, as follows:

PAVILLION, WYO.,
August 26, 1974.

Senator CLIFFORD P. HANSEN,
Washington, D.C.

DEAR SIR: The United States seems not to realize that the Dairy Industry is hurting.

We operate very conservately as we don't like to pay this high interest on the debts that have to be made.

Every year we find it more difficult to keep up with the expenses. The milk prices go down making a smaller spread.

This year we have had to pay $50.00 a ton for hay.

Now we will have to pay 10% more for Electricity. We use a lot of this to milk, refrigerate, pump water to clean and for the cows to drink, and lights.

We heat the barn so we can stand to milk without freezing to death in the winter and not have the pipes for water and milk freeze up. We have natural gas for this and that goes up in price on Aug. 26th, we hear.

We have rather old machinery as the new ones are so expensive. We have to keep repairing these and the price of repairs is so high if you can even get them. They have to back order so often.

We raise all the feed we can for our Dairy cows. We never have enough, therefore we buy some too.

We will have our corn cut for silage. This will cost us $22.50 an acre this year. We have 40 acres and will buy some as we need more. We pay cutting on that plus the price of standing corn which we haven't heard the price of yet.

Last year we paid over $2000.00 for water, construction and taxes (County). This year water for irrigation will be higher again. They have been raising this every year for some time now.

We haul all of our manure out on the fields. We also buy commercial fertilizer which is twice as high as last year. We were afraid we wouldn't even get it this year. We need that to raise more feed.

Then it takes much fuel, (gas, oil and diesel) to run the machinery and vehicles. This too, has gone up in price.

We, the family, do the work here except for custom corn cutting to hold the expenses down all we can.

We are required to buy insurance in case we have accidents, hospital expenses, liability etc. which does really take a lot of money too.

We have 50 cows which really isn't very many compared to most people. We plan to sell 10 as it doesn't pay to feed them if they don't do pretty good.

We have another farmer raise our replacement heifers for $300 a head. We feel it would cost this much if we had to buy feed for them. These people raise most of the feed on their place to raise them.

This is just part of the story, but just wanted you to know that it is hard to keep pace. It seems that the authorities don't realize that it is hard for the dairy people.

Really milking isn't that appealing so that we just like to milk if we can't make ends meet.

Thank you!

Yours truly,

Mrs. ELTON WILLIAMS.

TORRINGTON, WYO.
September 5, 1974.

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
Washington, D.C.

DEAR MR. HANSEN, I am writing in regard to the seriousness of the dairy farmers' situation. We are paying inflation prices for feed, but getting depression prices for our milk. We are currently going behind $1,000 to $1,500 per month because of the high cost of producing milk. So, of course, at that rate we will have to sell out at a great loss.

Also, we would like to know why we are not eligible to get some money through the emergency feed bill which was just passed. If we could get a loan to pay off some feed bills it could be the deciding factor in whether we have to sell our dairy herd.

Any help you could give us in getting dairy price supports would certainly be appreciated.

Very truly yours,

RICHARD L. PATTERSON.

GREYBULL, WYO.,
September 17, 1974.

Hon. CLIFFORD HANSEN,
Senator, State of Wyoming, New Senate Office Building, Washington, D.C.

DEAR SENATOR HANSEN: I am writing first in regard to the terribly low prices ranchers are getting for their beef. My folks, who are ranchers in the Ten Sleep area, attended a sale yesterday. Calves were selling for 27c a lb, yearlings were selling for 15c a lb. When meat prices in the grocery store range from 89c to $2.29 a lb., someone is making lots of money and it definitely is not the rancher. As one neighbor rancher stated, "We'll show them, we'll all go broke." "Them" being those persons who are making all the money between the rancher and the meat counter, or maybe it is the grocery stores. Someone—and those someones are the ones I am concerned about—needs to be delt with—not only in the meat prices but in all grocery prices. Perhaps you can tell me: 1. Why ranchers are getting such low prices, prices comparable to 20 years ago; 2. Why grocery prices have soared ridiculously; 3. Who is making all the money off these raised prices and why they are allowed to do this; 4. How people who live on a fixed income are expected to exist on what they receive with prices constantly soaring and 5. Why our President is so concerned when Congress cut back on certain foreign aid yet wants Congress to cut back on help for domestic purposes? Should not our country be more concerned with our problems right now? I am.

Please excuse me if this letter wanders slightly. I am very upset about all these problems and would like some answers. Perhaps you can help me. I thank you in advance if you can.

Very Sincerely,

MRS. MARTHA SUTHERLAND.

NILE VALLEY DAIRY,
Torrington, Wyo., September 17, 1974.

Hon. CLIFFORD HANSEN,
Senate Office Building, Washington, D.C.

DEAR SENATOR HANSEN: Enclosed is a letter I have sent to Secretary Butz which indicates the extent to which the dairy industry and the livestock business in general has deteriorated. I respectfully request your attention to those problems I have outlined in same. We have no where else to turn, and without further help from you gentlemen in Washington, this business is doomed. Help must come quickly as feed costs are escalating everyday, and our livestock and milk prices can not possibly catch up without some kind of emergency measures. Thank you for past assistance and for any you can give us now.

Best regards,

DICK LYON.

NILE VALLEY DAIRY,
Torrington, Wyo., September 16, 1974.

SECRETARY OF AGRICULTURE BUTZ,
U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Enclosed is a check for $39.68. This represents the proceeds from two very nice baby calves, four days old. To say that I was shocked would be an under statement. I enclose said check to dramatize and bring to your attention what has happened to the dairy industry and the livestock business in general. Last spring those two calves would have brought $75.00 a piece.

This only illustrates how dramatically the policies of your administration have failed the livestock producer. We in the dairy business have our backs to the wall. We have no where to turn. I am discouraged, disgusted, disappointed, and down right mad. I know that much of our problem has been brought about by the administration's attempt to balance the deficit in trade, but you have brought about chaos in the livestock business because you have thrown us out of balance with the grain farmer and feed raiser. Our projection for the future doesn't look very bright either as we are told we can expect no higher prices, and even less possibly, than last spring. Add that to the increase in the cost of feed since last spring and I only see the spectacle of bankruptcy staring me in the face.

At a convention I attended not too long ago I heard you say, and I quote: "Dairymen are only one swallow away from prosperity!" And I heard from another person, and I quote: "Consumers are now one swallow away from no milk at all!" Now where is the sense in all of this? I consider you to be the first real Secretary of Agriculture we have had in many years, but you have sure bungled this one. You now have livestock men not only competing against all the foreign markets in the world, but competing against our own feed raiser as well, and it has us whipped. "Please" Mr. Secretary, let American livestock producers and the American Dairymen supply the needs of the American Consumer. We can do it if you take away the spectacle and threat of import every time we start to make a little money.

We humans in this world still travel on our bellies and don't you ever forget it. We dairymen have nature's most perfect food and it can be marketed at a price that is fair if you would only let us alone. Use the laws that are already there, is all we ask. Let us compete but not against governments who subsidize their dairy farmers much higher than ours.

The average age of dairymen, I understand, is about 50 years. With no incentive to bring young men into this business and with lots of us in the 50 year bracket going broke, I see a very dark future for the consumer in the years ahead. She will think the price she is paying now is nothing compared to what it will be if we rely on foreign markets.

I agree that inflation must be checked and I agree that the balance in trade has to be straightened out. I am happy for the grain farmer, he has needed a break, but shouldn't the other segments of agriculture have consideration too?

I think I have made my point and to sum it all up. If you want the American Dairy farmer to produce the dairy products for Americans, please give us some consideration NOW. Already it's too late for many but it takes a while longer for some of us, but not much longer.

I would appreciate it if you would see that the check gets to some organization who would use it to buy MILK for the needy. It may be their last chance. I am sending copies of this letter to each of Wyoming's senators and representatives. Thank you for your time and hopefully your consideration to a nearly broke dairyman.

Best Regards.

DICK LYON.

[From the Washington Star-News, Sept. 15, 1974]

MOTHER NATURE KILLS HOPES FOR RECORD CORN CROP

(By John Fialka)

OTOE COUNTY, NEBR.—The seemingly endless rows of corn that line the country roads here have a healthy green color. Bulging ears protrude here and there, giving the casual observer the impression of another bumper crop.

It is another irony in what may be a year of terrible ironies for some Midwest farmers and most American consumers: there are no kernels on the corn cobs inside the ears.

The mirsummer drought cooked the pollen-filled tassels on the corn before the plant could fertilize itself. The fields are really almost barren.

A failure in what was supposed to have been a record corn crop is no small thing. Together, the people in American agriculture represent the nation's largest and most efficient industry.

Their biggest product line is corn; they produce more of it than all of the rest of the world's farmers combined. The corn becomes a major component of our food chain. It is the principal livestock feed and is used in hundreds of thousands of food products.

Falling short of corn, then, is to the food chain something like General Motors running low on steel.

Here, if it is any consolation, America's vaunted farm technology almost made it. The eerie, life-like green comes from expensive, high-powered fertilizer. The impeccably weed-free fields are a product of herbicides. The dense stands of corn, plants growing sometimes less than nine inches apart, are a result of new, super hybrids.

But mother nature was still needed to complete this chain of technology and, for once, she did not cooperate.

"It wouldn't help this corn if it rained from now till Christmas," said Harvey J. Harms Jr. as he bounced alongside his fields in a pickup truck.

The rains that broke the drought in the corn belt early last month have cut the dust and have even produced mudholes where the land had cracked open in July. But by then, the damage was done, damage that will reverberate for months and play havoc with government plans to contain inflation.

So Harms has already cut down 30 acres of his corn and buried it in a pit that is covered by a black plastic sheet weighed down by old automobile tires. It is a homemade silo and there will be thousands of these burial pits in Nebraska and western Iowa this fall.

Harms will use the resulting sweet-smelling silage to feed his cattle, but it will not do much toward protecting him from the losses caused by the drought.

Like most of a dozen farmers interviewed recently, Harms had little idea how much his final losses might be because, like the nation's consumers, he may be looking at only a glimmer of the damage that is yet to come.

Although the Agriculture Department has said little about it, it is the frost that will be the final arbiter of damage in this calamitous year in agriculture.

The latest 30-day forecast calls for abnormally cool weather over most of the Midwest through September. For Harms, who has already taken one blow from the weather, it is a bad omen.

"That frost has got to hold off," he says as the pickup truck jounces past his other fields, planted in soybeans, and past some of his neighbor's grain sorghum. These crops survived the heat and are being revived by the rains.

Both plants have a capability of protecting themselves during a severe dry spell by going dormant, stopping growth for a while to wait for moisture. As a result, substantial areas of as yet undamaged crops in Nebraska, Iowa, South Dakota and Kansas are as much as two weeks late and thus vulnerable to an early killing frost.

Unusually cool nights early this month have already brought a light frost to parts of Iowa, Minnesota, South Dakota and Nebraska. The damage was believed to be slight, but it was not a good omen.

"The specter of frost damage also hangs over the more fertile eastern end of the corn belt. In Indiana and Illinois as much as 20 percent of the corn crop was washed out by heavy spring rains and had to be replanted, delaying it for several weeks.

In the middle of Iowa, where farmers got both the spring rains and the drought, the soil first became soupy and then was baked to a brick-like hardness, strangling the corn.

That resulted in a queer notation on some of the thousands of damage estimate forms that are now making their way toward Washington: "Damage due to excess moisture and drought."

Last month, Agriculture's Agricultural Stabilization and Conservation Service, which receives the damage reports conducted a survey of the drought damaged areas and came up with an estimate of $500 million.

More recently, ASCS officials have admitted that the possibility of frost damage and other imponderables may make the $500 million estimate a premature figure. "That estimate was very shallow on facts," said Glenn A. Weir, associate administrator of ASCS. "We may have missed it by a country mile."

All of this is unsettling to both Agriculture and the Office of Management and Budget. Agriculture Secretary Earl Butz encouraged farmers to plant heavily this year in order to reduce major crop subsidy payments to zero for the first time in many years. OMB, currently grasping for ways to reduce federal spending to ease inflation, must find money to pay farmers for a portion of their losses under a law passed last year.

But the disaster payments are only one part of a triple whammy that the crop damage will deliver to the anti-inflation effort.

Last Spring Agriculture announced that this year's corn crop could be as much as 12 percent bigger than our biggest previous bumper crop. It would be big enough, Butz reasoned, to keep food prices low. Using their slide rules, food marketers had visions of corn selling for $2 a bushel.

After the drought, Agriculture's estima-

tors decided that the corn crop was going the other way. It would be 12 percent smaller than last year's bumper crop. Corn hit an unheard of $4.00-a-bushel price in some cash markets during August.

The plan for lower food prices was then jettisoned by Agriculture, which had predicted food costs would "flatten out" in the fall and begin declining by early winter. Instead, consumer food prices would climb another three or four percentage points, the department advised.

Agriculture had also projected a bin-busting crop as the prime way to solve the nation's balance of trade problems. The original scenario was to offset the inflationary oil bills by hustling more international grain deals.

By late August though, Secretary Butz was hustling in the other direction, trying to convince Common Market buyers not to buy as much of our corn as they wanted.

It was the start of a strange, new game for American agriculture. The surplus crops, which represented a huge cushion against potential adverse weather conditions in the 1960s, had been sold. The nation's stocks of feed grains (corn, and grain sorghum) had slumped to the lowest point in over 20 years.

Thus, this year's corn crop was not going to be just another bumper crop. It had to be a record crop to make Agriculture's plans come out right.

The failure of such grand strategy emerged slowly out of an almost euphoric spring in Nebraska. Farmers in other states had had their problems with heavy rains, but the weather in this southeastern corner of the state was ideal for planting.

There would be a bumper crop, said Washington, and Nebraska farmers were planting heavily. They could see the market for all that corn would be there. The steel storage bins that once dotted the Nebraska landscape were gone.

The bins were once the government's way of housing surplus corn. Early this spring, the government emptied the last of them here. They contained corn that was 17 years old. But it was still good and found ready buyers.

Then the bins were sold at auction. Nebraska corn farmers engaged in some sharp bidding for them because they would be needed to house the enormous fall harvest.

Corn planters were adjusted to plant the corn closer together and, although fertilizer was in short supply and high priced, prodigious quantities were applied.

"You had to shoot for all out," said Harms, who asserted that farmers faced with increasingly high prices for their supplies and equipment had to gamble that corn would be this year's big money crop.

And in early June, when the sea of young green plants appeared on the land, it was a heady sight indeed. Floyd W. Bohlken of nearby Nemaha County had farmed since the dust bowl in the 1930s. He remembers getting off his cultivator one day in June and looking at his fields.

"I said to myself that I've never seen things look so good," he recalls. "It was so good I began to wonder if something wasn't going to happen."

By the time the drought had already begun. The rains had stopped in May, but the damage did not become obvious until mid-July when the temperature rose to over 100 degrees for a dozen days in a row.

During the day the heat was accompanied by searing, dry winds. At night the humidity dropped so low that not even the dew was there to aid the scorched fields in the morning.

Ministers in country churches all across eastern Nebraska and western Iowa began praying for rain every Sunday and farmers like Bohlken began hoping "well, maybe it will rain tomorrow."

But corn does not hold up under such stress, especially if it comes during the crucial time of pollination. Bohlken knew this, but he kept on hoping until one day in late July when he went out to dig some potatoes.

The ground was too hard to dig. Bohlken discovered he could stick the 18-inch blade of his torn knife into some of the cracks that had opened between the corn rows without touching bottom.

The time had come to look at the corn. "I always thought it looked nice 'till I got to walking around. There were so many of those ears with nothing on them," he recalls.

One night in early August it rained. It poured as much as three inches on the fields in a few hours. Farmers can almost pinpoint the moment the drought was broken because the rain came the same evening President Nixon gave his resignation speech.

But by that time nothing could help or hurt much of the eastern Nebraska corn. Thousands of Nebraska farmers were already applying for federal crop disaster payments.

Paul Holechek heads one of the many teams of federal crop adjusters who are now walking the corn fields, estimating damage. Often, as the late summer turns increasingly wet and cool, the men have had to don wading boots to get through the muddy black gumbo soil.

Holechek believes that this year the heavy fertilization and dense planting may have aggravated the damage. "Some corn fields that weren't fertilized and are planted on the thin side, they've got some corn."

Holechek, who works for the Federal Crop Insurance Corp., spends his days picking corn in small, measured sample areas of a given field. Then he weighs the corn on a device that looks much like a baby scale to determine how many bushels the field might yield per acre.

At one point this spring, Agriculture estimated that the nation's average yield would be 97 bushels of corn per acre. Some parts of Bohlken's fields will now produce about 5 bushels per acre, a yield that Holechek says is relatively good compared to many fields he has seen which have had to be written off as total losses.

If Bohlken had been fortunate enough to produce a corn field equal to the projected national average, he would have made somewhere around $3.50 a bushel, or about $345 an acre.

As it stands, he will make about $30 an acre under the Federal Crop Insurance program and probably a similar amount under Agriculture's crop disaster payment program. The combined payments will probably not cover the costs of the seed, fertilizer and herbicide he has put in the ground.

Still, Bohlken is one of the lucky ones. Only about one in 11 farmers paid premiums for Federal Crop Insurance. Most Nebraska farmers will only be eligible for the second program, the crop disaster aid program, which will pay farmers in this area about 46 cents a bushel for their losses, based on their average yields from past years.

As yet, it is difficult to see the extent to which the farmers' losses will impact on the economy of Nebraska, or on the nation as a whole.

According to local ASCS officials, the losses will have a geometric impact on farm communities because each dollar created in income by the farmer initiates about $8 worth of business before it leaves the state.

"Farmers are famous for spending what they make," he adds, noting that the average Nebraska farmer must have about $250,000 worth of land and capital equipment to farm. "This year they will have no income, some of them, but there are still bills to pay and mortgage payments to make."

Farm equipment does not come cheap. A small tractor can cost $16,000. A small combine can run $40,000. A rear tire on a tractor is a $300 item.

After the drought of the 1930s, farmers had to cut their seared corn with their corn knives and bring it into the barn to be chopped into feed. This year they will pull chopping machines into the field that can quickly reduce whole acres of promising-looking corn into green mush to feed to the cows.

High technology farming may mask some of the hardship of the drought. Secretary Butz and other Agriculture officials in Washington may ease some of the apprehension by pointing out that "there is no need for panic," and that this year's crop may still be the fourth largest on record.

But nobody denies that the weather is now master of the men who farm on the plains. There are a number of people who feel that, despite the continued, sanguine predictions, the full damage has yet to surface.

"No man living today can predict within 500 million bushels how large the actual 1974 corn crop will be," asserts Walter Goeppinger, board chairman of the National Corn Growers Association.

"It all depends on the timing of the first killing frost."

Goeppinger's group believes the probable size of the crop will be in a range running from just slightly above Agriculture's most recent 4.99 billion bushel estimate to a possible low of 4.5 billion.

And Goeppinger, whose group has an interest in sustaining high corn prices, asserts that Butz is putting a "rosy" picture on the situation because he is trying to "jawbone" his way out of a problem.

Pointing out there are now believed to be no major surplus grain supplies anywhere in the world, Goeppinger argues further that "any new unexpected demand or shrinkage of output anywhere in the world could change the picture overnight, putting much more pressure on the American crop.

"We're not the only country that could have an early frost," he added. "Canada and Russia have planted grain late this year."

Frost is just one of the threats the weather poses, now that the long era of crop surpluses is over and, as Goeppinger puts it, "the supply string is now stretched to the limit."

According to Lyle Denny, a meteorologist for Agriculture's weather service, the midsummer dryness has robbed the soil of the moisture it will need to sustain a winter wheat crop.

Planting of the crop will soon be under way in Nebraska and other Plains states. If there is a major deficit in this crop, it will be known by December and put still further upward pressure on basic food prices.

Prospects for winter wheat are, according to Denny, a "tossup affairs." Rains have restored moisture to the fields of the Texas panhandle, where the drought started, but the fields of central and southwest Kansas have not recovered.

If the frost holds off and the winter wheat crop comes through, there is still the knotty question of whether the dryness of the summer of 1974 was the start of another drought cycle.

For the last 100 years, droughts have recurred in the high plains area west of the Missouri River and east of the Rockies every 20 years.

It is a stunning phenomenon to the nation's meteorologists who are now divided over whether the cycle is reasserting itself again. If it is, it means that the nation may look forward to not just one dry year, but probably four in a row.

Denny asserts that this year's dryness does not yet qualify as a drought and believes that the 20-year patterns have been largely coincidence. "We feel from the outset that such things are of random occurrence."

Dr. Murray Mitchell, senior research climatologist for the Department of Commerce's Environmental Data Service, is more impressed with the evidence of a drought cycle.

The dust bowl ran from 1932 to 1936 and

extended from the mountains as far east as Ohio. Droughts recurred in 1952, beginning in Arizona and extending over widespread areas in the Midwest, he pointed out.

Since then, he notes, "we have had an extraordinary run of good crop weather in the U.S. It's been about 16 years running. Normal weather is much more variable."

The odds against such a string continuing, he believes, are now "very high." "Frankly it makes me very nervous," he adds.

But the mechanics of American agriculture in this new age of low-surplus, high technology farming must go on. Bills must be paid. Mouths must be fed.

Recently Secretary Butz urged farmers to "go all out" next year and plant another record crop.

Soon Harvey Harms will clear the corn stubble from his land and prepare the fields for winter wheat.

Last year was a good year and next year might be another, reasons Harms.

"Gamblin," he shrugs. "Always gamblin."

[From the Washington Star-News, Sept. 16, 1974]

FOUR DOLLAR CORN HITS BROILER CROP

(By John Fialka)

EASTON, MD.—While news of the drought's impact on the 1974 corn crop has sent tremors through the nation's entire food production chain, the first real earthquake is happening here.

This is chicken country. The Delmarva peninsula is the birthplace of the American broiler chicken, believed to be the world's most automated animal. He is a creature of our technology—fed by computers, raised by machinery and protected by wonder drugs and vitamins in climate-controlled houses.

But he is vulnerable to one natural predator: high-priced corn. And when the economic turmoil is over out here, this vulnerability will have been passed on to the consumer in the form of a shorter supply of high-priced poultry products.

Raising poultry has been an increasingly shaky business since the summer of 1972, when the Russian wheat deal sent the price of chicken feed upward.

So this year, when the Agriculture Department predicted that the nation was about to produce a record corn crop, poultry men thought they saw an end to their difficulties.

"We thought at one point we were looking at a 6.7 billion bushel corn crop and maybe $2 a bushel corn," says Ed Covell Jr., president of Bayshore Foods, Inc., a company which normally has about 7 million beaks to feed.

Now, largely because of the drought in the Midwest, Agriculture has had to revise its estimate downward to 4.9 billion bushels and Covell and the rest of his industry are looking at a new phenomenon in the chicken business: the $4 bushel of corn.

Corn at that price is a kind of economic monster. It is about three times what livestock men have been used to paying for it. At the moment, the entire American meat industry is grasping for new ways to use less corn.

Some producers have options. Cattlemen, for instance, are feeding their animals lots more grass and are even experimenting with such things as treated chicken manure as a new, low-cost feed ingredient.

But chickens cannot be put out to pasture. Their regimen is fixed by automation. It begins with corn from day one. Since the market price for broilers is, according to poultry men, not high enough to pay for his feed, the industry is stuck. It has no option other than to cut its flocks.

The diminution of the nation's chicken population is now under way and it will continue until the market price goes high enough to pay for the corn.

Covell's company is in the process of cutting back its flock by about 15 percent, roughly a million birds. Its huge, three-story growing houses, where one man can grow up to 100,000 birds at a time, will be vacant for longer periods of time.

The number of eggs set to become broilers dropped last month by 12 percent, measured against a year ago. "There has never been a drop like that that I can think of," commented one government poultry expert.

The number of egg-laying hens now being culled out and targeted for chicken soup is up by a whopping 17 percent. Eggs that might have been hatched into broilers are now being sent to "breaker plants," where they wind up as ingredients in cake mixes and other processed foods. Breaker plant activity, according to a Agriculture spokesman, is "up sharply."

All of this is being closely watched by hog and cattlemen because they, too, will soon face the same problem. The growing cycles of their animals are longer, however, so the impact of cuts in production will take longer to reach the supermarket.

But a fuzzy chick takes only eight weeks to turn into drumsticks, so what the poultry men are doing is likely to hit the consumer sometime this fall.

The price of eggs, which have a still shorter production cycle, already has jumped a dime a dozen during August on the key New York wholesale markets.

The broiler industry has never had a major cutback in production since it began booming shortly after World War II. It has always tried to solve its economic problems by scaling up. Bigger is better. If a two-story chicken house won't pay, build a three-story one.

Recently one major Maryland broiler production facility, owned by Otis Esham of Parsonsburg, Md., went into bankruptcy. Esham does not want to talk about it. "It all happened so quickly that I'm not sure what went wrong," he told a reporter.

According to George B. Watts, president of the industry's major trade association, the Nation Broiler Council, three other major companies have had to close down major parts of their plants for lack of operating funds.

Watts calls the sudden decline in Agriculture's estimate of the corn crop a "catastrophe" that the industry had not been prepared for and one that gives it almost no room to maneuver.

Paul Davis, president of Empire Farms, a major egg production facility near Atlanta, Ga., put it another way:

"Corn is the basic, it is the meat and potatoes of chickens. I don't know of anything in the world we could substitute to any great extent."

The vulnerability of the business to price fluctuation is illustrated by the scale of Davis's operation, which is in the upper medium range of egg production plants.

He has half a million laying hens. Every week, rain or shine, drought or no drought, Davis's machinery is programmed to deliver them a small mountain of corn, 10,500 bushels. And every week his completely automated equipment picks up 2,160,000 eggs in tribute.

The hens are packed four to a cage in gigantic laying houses, one of which contains 120,000 birds. Food and water automatically appear in front of the cages, so the hens never leave during their year-long laying cycle.

It takes four pounds of feed to make a dozen eggs. Roughly 60 percent of the feed must be corn, the other ingredients may be fishmeal or soybean meal or other types of feed, depending on market prices. Davis, like most high volume operators, depends on a computer that remembers market prices and programs a ration that will produce eggs at the least possible cost.

The feed is made up in the farm's own mill. The eggs, when they appear, slide down a chute onto a belt. The belt moves the eggs onto a cross belt which takes them to a machine that packs them and crates them.

"Nobody touches them unless there's something wrong with a machine or something," said Davis.

Each of his hens will lay up to 240 eggs a year. No part of the operation can be cut back very much. "You've got to keep the feed mill and the egg plant moving at a high volume because you've got everything geared up to do a certain job."

Bigness creates leverage. "You can drive all over the country around here and you'll very seldom see a farm house that's got chickens any more. They can't do it. It'll cost them more to produce those eggs if they keep up with it than they can go to the store and buy 'em," Davis asserted.

But leverage can also work against you. Four weeks ago Davis began buying $4.03 a bushel corn, the highest price he has ever seen in 22 years of business. Every dozen eggs that came rolling out cost him over 50 cents to produce, he estimates, while the wholesale market price for them was 43 cents a dozen.

By the first week in September the market price had reached an average of 55 cents a dozen, about the point where Davis believes he can begin breaking even. "We're going to have to get that kind of average from now on," he said. Davis's operation is relatively simple compared to a broiler operation.

Covell's Bayshore Foods is one of 175 "factories" that produce the 3 billion broilers that America eats every year. They too suffer from reverse leverage.

It all began with a Delaware woman, Mrs. Wilmer Steele, whom the industry reveres as the "Henry Ford of chickens." In 1923, when she began her experiments, chicken was a luxury items, selling for as much as $1 a pound.

They were traditionally raised in the barnyard in the spring and hit the market around the Fourth of July, hence their name: "spring chicken."

Mrs. Steele ordered 50 chicks, but the hatchery sent her 500 by mistake. She was a determined woman however, and found that with the right feed you could raise chickens indoors on a year-round basis.

That called for corn, which supplies some of the nutrients that the chickens got from sunlight. Later feed companies enhanced the mixture with such things as artificial amino acids, antibiotics and vitamin D.

Feed prices went up, but the growers always stayed ahead of the costs by finding ways to reduced costs through automation. As a result, the price of the broiler kept going down.

By the late 1950s, the industry seemed to hit its stride. Growing houses contained acres of chickens, packed together so they didn't waste calories running around.

Automatic feeders supplied water and feed. Use of hybrid birds cut the growing cycle from 13 weeks to 8 weeks. High-powered feed meant that where it formerly took 4 pounds of feed for a pound of chicken, it now took 2 pounds of feed.

All of this added up to chicken at 29 cents a pound. Covell grows wistully when he thinks about it. "Gee, that was kind of a magic number. We sold chickens at that during the late 1950s and all through the sixties. It never seemed to vary much. But you can see those days are over."

It now costs Bayshore 45 cents a pound to grow a chicken and send it to New York, where the wholesale price on the day Covell was interviewed was 39 cents a pound.

When you deal in 7 million chickens at a crack, a loss of 18 cents per bird is nothing to sneeze at. And, for once, there seems to be no new technical innovations on the horizon.

"We've gotten to the bottom of the barrel now and our costs are accelerating faster than we can increase our efficiency. You see you get so efficient after a while where there's

not much more you can get and we're at that point," asserts Covell.

A 12 percent reduction in eggs that are hatched to become broilers means 23 million pounds of chicken that will not be coming to market each week, according to Watts.

According to Agriculture figures, the cutback has been at that level throughout August. And the cutback in the flocks that lay the eggs for hatching has been even sharper. Once the laying flocks are cut, it takes about 18 months to re-establish the cycle.

Thus, a drought over eastern Nebraska is quickly translated into smaller chicken flocks. It is delivering a jolt that will throw the nation's most automated animal food business out of its normal cycle for months.

That will, in turn, probably mean that the consumer will pay more for his chicken and eggs, but the farmer, the man who grew the $4 bushel of corn, may have to pay too.

When it is running at full tilt, the chicken industry consumes a prodigious amount of corn. As one poultry man ruefully put it: "If they grow a bumper crop next year, there ain't going to be a whole lot of birds around to eat it."

[From the Washington Star-News, Sept. 17, 1974]

LEAN YEARS AHEAD FOR STEAK LOVERS

(By John Fialka)

KUNER, COLO.—There are lean years ahead for lovers of that most venerated item of American cuisine, the tender, juicy steak.

The people who developed the awesome technology that stands behind the American steak are preparing for a basic jolt to their business, a jolt that eventually will transform the average consumer's dinner menu with smaller portions of his favorite meat at increasingly higher prices.

Kuner is the site of a "steak factory," one of two enormous feed lots operated by Monfort of Colorado, a company which, in normal times, can turn 500,000 scrawny yearlings into delicious beefy animals each year by stuffing them with corn-based feed.

The cattle are here, as always, standing patiently in pens extending about a half mile in all directions from this pungent-smelling cross-roads about an hour northeast of Denver. They are waiting for the trucks to come by with their next computer-prepared meal.

But these are not normal times for Monfort or anyone else in the cattle feeding business, which claims to have lost as much as $2 billion during the turmoil of recent months, turmoil capped off by a drought which cut about 1.8 billion bushels out of this year's expected corn crop.

The drought has sent the price of cattle feed soaring. It is completing a grim scenario of events that beef people have been anticipating for some weeks.

The scenario begins with an illusion for the nation's shoppers. A huge supply of cheaper beef, primarily hamburger, cold cuts, wieners and the like will begin appearing in supermarkets this fall.

The deluge of cheap beef probably will drive the nation's per capita consumption of beef—higher than for any other meat and highest in the world—still higher. The supply will give the impression that the age of the cheap hamburger will be with us forever.

But that does not appear to be the case.

Market forces already at work will end the wave of plenty sometime in 1976. Beef prices may then begin to escalate to unheard-of levels and supplies will suddenly drop sharply. Both movements probably will continue for at least two years after that.

The first signs of this scenario are already apparent. The Department of Agriculture's meat experts, looking at preliminary data from the month of August, believe that more cattle were killed last month than in any other month in the nation's history.

Included in the data, which will be announced at the end of this month, are indications that the slaughter of calves may be up as much as 70 percent over last year. The slaughter of cows also is believed to be up sharply.

The cows and their calves of what might have been a continuing age of plenty for beef consumers are coming to market early.

The impact of this slaughter will be delayed because about two years are required to bring a steer to market—the longest growing cycle of any major food product.

The cycle used to take longer than that, but in the late 1930s, Warren H. Monfort hit on an idea that probably has changed American life as profoundly as have some of its technological inventions.

Cattle used to be fed entirely on grass. Animals that were rounded up by cowboys for the trip to market were often over three years old, and their meat was often stringy and tough. There were some good steaks, but cattlemen could not produce them with mass-production consistency.

Younger consumers might find it hard to believe, but people used to be willing to pay more for pork than for beef. Even chicken sold at a premium compared to beef.

Monfort and other pioneer cattlemen, however, saw the flaw in the old system and turned the market completely around. Cattle spent too much time running around, the cattlemen decided, and could be brought to market sooner at a heavier weight if they were confined in pens.

During their confinement, their diet should consist not of grass or hay but primarily of corn, Monfort decided. Corn produces the marbling, the fat and the texture of what we recognize today as the steak.

The winters here, just east of the Rockies, are mild. And Monfort was able to take the seasonal element out of the market by fattening cattle year-round.

By World War II, he had scaled up to a size that amazed the industry, feeding 3,500 animals at one time. By 1960, he could feed 32,000 head.

The new 1,200 pound animal on his way to market was barely an adolescent, 24 months old. Sometimes it was just a calf, weighing about 400 lbs. when it was put on a feedlot to be stuffed with a mixture of corn, sugar beets, soybean meal and other delicacies never found out on the range.

But the cattle feeding business had just begun to scale up. Somebody came up with the astounding discovery that a synthetic hormone, diethylstilbestrol, would make penned cattle gain weight faster on less corn.

Cattlemen began mixing the drug, known familiarly as DES, with an animal's feed or implanting it as a tiny pellet in its ear. The upshot was that the feeding cycle was shortened by as much as 20 days, saving all that corn for the next batch of animals.

At present, the average feedlot stay for an animal is 150 days. In new automated feedlots, such as the one here and another being built nearby by Farr Farms Inc., a Monfort competitor, these are days of leisure.

Antibiotics placed in cattle feed have reduced the animals' mortality rate and there is little for them to do except mill around the crowded pens until the next feed truck rolls by, dumping its heated, specially mixed ration into the concrete troughs as it goes.

Each pen's ration and feeding time is remembered by a computer, which also remembers feed prices and mixes the ration according to the least cost for a given amount of nutrition. Machinery has, by and large, replaced the cowboy. The Farr Farms lot, when full, will have 35 employees feeding 40,000 cattle.

This method has meant money for Monfort, which drew up plans to feed 250,000 cattle at a time and added its own packing house on the end of the production line.

Monfort of Colorado now sits at the apex of an industry that feeds as much as 75 percent of all the cattle that are slaughtered. About a third of the industry is composed of big companies with feeding units of 16,000 head or more.

Bigness begat bigness. The tremendous demand for beef set the plans two years ago for the country's largest cattle herd in history. Approximately 138.3 million cattle are walking the nation's ranges or its feedlots.

And bigness often has been its own reward. Feeders who feed animals by the thousands have been able to buy cheaper feed—only the beginning of the benefits of scale.

Consider the example of just one of Monfort's feed lots. It produces 500,000 tons of manure a year.

That small mountain of manure is scraped from the pens by highway-sized road scrapers and piled and compacted by bulldozers. The manure is sold to farmers for fertilizer. Soon, however, Monfort and a group of scientists will build a $5 million plant to convert the manure to methane, or pipeline quality natural gas, by bacterial action.

The gas from the manure will be fed into a nearby pipeline owned by a company which will pay the going market rate. Carbon dioxide, a bi-product, will be compressed into dry-ice pellets which are used by Monfort in the packaging of its frozen steaks. The manure residue left over from the process will, according to experimental data, have better fertilizer properties than the original.

But something happened in the last few months that began to tarnish what had been a continually brightening picture for cattle feeders. Some cattlemen say it was the Russian wheat deal that caused basic cattle feed prices to begin moving upward.

Others blame a tax loophole which allowed outside investors to take a shot at the big money in cattle feeding.

Some cattle feeding operations thrived on this type of business. An outside investor would become a paper partner in a feeding business. Even if he lost money, he could come out ahead by paying for large amounts of feed in advance, thus shifting taxable income from one year to another.

Last year, according to cattle feeders, was a year of grief. The price of feed, barbed wire, fence posts, and fuel began to send the overhead of the business soaring. And there were new limits imposed on the price he could get for his fattened cattle.

The consumer beef boycott imposed one ceiling. Then the Cost of Living Council imposed another. When the price was right, the truck strike prevented the feeder from getting his product to market.

Then the Food and Drug Administration decided that DES should be banned and ordered it to be removed from the market. The drug, the agency pointed out, is a known cancer-causing agent and experimental data showed that traces had begun showing up in meat. (The ruling was later withdrawn after a court challenge and the FDA was sent back to gather more evidence.)

Curiously, the basic cost of the industry, the market price of feeder cattle, the young animals the feeders bought for their pens, did not reflect these fluctuating forces. It moved steadily upward, from $50 per hundredweight in January of 1973 to an unprecedented $74.72 in August.

Some people think that the scale of the business demanded mass production at any cost. Some cattle feeders argue that it was not the scale but the influx of outside money—the dentist from New Jersey who had discovered cattle feeding as a tax shelter and bought cattle regardless.

"Amazingly, the feeder cattle price did not drop for a long time," explained Kenneth Monfort, who has now taken over the reins of the company from his father.

"You see there was so much 'outside money,' Wall Street investors, tax gimmick people in the business, that it just couldn't

drop. They simply had to own a lot of cattle on January 1, 1974 . . . they had to have prepaid feed and interest, they had made money feeding cattle or knew someone else that had and where else in town could you find a game like this . . . ?"

The forces driving the costs up coincided with the mass of beef hitting supermarkets at the end of the price freeze, driving down the retail price.

Then, cattle feeders say, they began losing $100 a head. Small operators went under. Outside investors withdrew what money they had left and looked for tax shelters elsewhere. (The Internal Revenue Service attempted to close this loophole, but was later forced to withhold the ruling by a court challenge, which is still pending.)

But it was difficult for cattlemen to go elsewhere or even to slow down. They had built huge, capital-intensive plants, complete with cement feeding troughs and automatic feeding systems.

William D. Farr, of Farr Farms Inc., feeds about 100,000 cattle a year, and is second in size only to Montfort in Colorado.

He put his problems to a reporter this way: "So I subsidized you as a consumer for eight months to the tune of about $100 a head . . . Now then I'm damn near broke. I've had to mortgage farms which I've never done in my life in order to stay in the business."

Currently, Farr, Montfort and a number of other feeders are doing what might have been unthinkable in the business up to a year ago. They've stopped buying cattle. Farr's feedlots are two-thirds empty and Montfort's are down by about a third.

"We're being stubborn. We've lost so much money for so many months that we cannot afford to take the extra risk at the moment until we can buy cattle and be sure we can make some money, so we're just going to quit feeding cattle. We'll let the plant sit idle. It's cheaper to pay the overhead and taxes," Farr explained.

This non-buying is designed to shift the losses to sellers of feeder cattle, ranchers who normally shift animals off the range and into the feedlots before winter.

Prices for feeder animals suddenly have gone into a tailspin, down $40 from the high of $72 a hundredweight and may go lower before winter.

The ranchers, Farr believes, will have to sell yearlings at a loss or rent space in feedlots and pay for the high-priced feed themselves. The result, he believes, will fill up the feedlots once again.

Referring to the record number of animals now "out there in the sagebrush," Farr adds, "They're either going to have to stay out there and wait their turn or die in the winter, one of the two."

Sam Addoms, vice president in charge of finance for Montfort, claims the company has lost almost $5 million during the last 9-month period by buying high and selling low. He sees the future in equally cold-blooded terms:

"The rancher is next in line to get the shaft and he is going to respond by being a reluctant seller. First he's going to cull his cow herd. He's going to cull older cows. Then he'll have to decide whether he will sell his heifers or his remaining cows and my guess is it'll be some of both."

Cow meat, according to Addoms, is tougher because it is older and it does not look good under cellophane in supermarket meat cases. "Hamburger prices will really be depressed and should really be a bargain. You'll be buying hamburger made out of cow."

Thus, according to the scenario, cow hamburger will soon be raining on consumers as a result of the bloody economic battle between cattle feeders and ranchers.

The younger liquidated cattle, being sent to slaughter by the ranchers right from the ranges, will probably be sold as veal or "baby beef."

Sometime, perhaps by late 1976 or 1977, the nation's great record cattle herd will be cut to a fraction of its former size.

What happens next? "In 1977 and 1978 the price will begin to escalate dramatically," explains Addoms, "and nobody will be able to do a damn thing about it because there's no way to respond immediately."

Ranchers will see the price moving rapidly upward and hold back some of their young cows to rebuild their herds. "That'll accelerate the price even more. O.K.? And then we're into another cycle," Addoms says.

How the consumer will respond to the cycle is a part which Addoms finds "really interesting."

"I don't know how he's going to come out. Is he going to cut out potato chips and convenience foods and go back to the old-fashioned concept of can your own foods?

"You're certainly going to see the consumer's expenditures for food exceed the 16 or 17 percent Mr. Butz (Secretary of Agriculture Earl Butz) has predicted. It's going to go to 20 and 21 and 22 percent and, more than that, you're going to see consumer pricing be much more volatile than we have seen it in the past, much more cyclical," Addoms says.

Farr sees the Americans' per capita beef consumption dropping from around 116 pounds per year to somewhere in the 90s as part of the "new ballgame" taking shape for 1976.

"The public just hasn't paid the cost of it. What the market says is that the desire is there but not enough to get people to produce it."

Meanwhile, the whole beef feeding movement has turned around. It's back to grass for those animals who are not culled out of the herds this fall.

A proposed new Department of Agriculture meat grading system, favored and championed by the cattle feeders, places less emphasis on corn-produced fat in the meat. The system will shorten the feedlot cycle

Cattle feeders also have turned to buying range-fed animals at 700 pounds or heavier to shorten further the animals' feeding time on expensive corn.

According to Farr, once the consumer gets over the dent the the new beef will take out of his pocketbook, he will find no taste difference. Steaks will still be juicy and rare if the animal from which they are cut has spent some time lounging in a feedlot.

And so it will be, according to men who know, the nation's beef business as well as anyone, that the impact of the drought of the summer of 1974 and other events will not reach the "queen of meats" until 1976.

But by that time, if inflation has not been mastered, a lot of the other "fat" will have been removed from the American lifestyle and the lean, new beef in meat cases may fit into it more neatly.

"God put a cow on this earth with his four stomachs to eat leaves and grass and hay," Farr points out, "and we've got to utilize the animal for what it was meant for and put on as little weight as possible with this high-priced grain."

[From the Washington Post, Sept. 22, 1974]

EAT, EAT—BUT NOT SO WELL

(By Dan Morgan)

For Don Hoppe, as for millions of other Americans, the neighborhood supermarket is contributing powerfully to a sense of bewilderment and discontent in the late summer of 1974.

Hoppe, 38, and his wife Cecelia, 34, who own the Riverside Lodge just outside Berryville, Ark., in the Ozark Mountains, have resorted to the "hamburger cow" to feed themselves and their two children.

The "hamburger cow," says Hoppe, is one that is so old—12 to 15 years, maybe—that "she's not good for anything but hamburger." Hoppe recently bought a half interest in an 850-pound animal of that kind, and had it slaughtered, packed and quick-frozen. His half cost $140.25.

"All you can do is grind it up," he says. "The meat's too tough for roasts and steaks. We tried some stew meat and my wife boiled it for hours, and it was still too tough to chew."

The "hamburger cow" is Don Hoppe's personal answer to a relatively new but deeply troubling phenomenon. In the world's most productive agricultural nation, the high cost of buying basic things to eat has become a pervasive concern.

Hoppe's solution may seem a radical one. Yet there are experts who fear that unless things change in the American agricultural economy, Hoppe may turn out to be ahead of his time in lowering his tastes and reducing his dietary expectations.

"We are heading into a period of 5, 10, 15 per cent less pork and broilers by mid-1975," says an Illinois economist.

According to Kenneth R. Farrell, deputy administrator of the Agriculture Department's Economic Research Service, the country is worse off than it realizes. "We're teetering on the verge of having available relatively less meat than we were used to in two or three years," he warns.

Cattlemen are taking losses of from $50 to $200 a head, according to agricultural agents around the country. Eliot Y. Johnson, who grows corn on 900 acres of tillable land in Ashland, Ill., got out of the livestock business five years ago. He sells his corn for cash now instead of feeding it to animals. Last year, he received a record $3.10 a bushel for some of his corn. But some of his friends and neighbors were not so lucky.

"They've lost their shirts on livestock," he says. "It's unbelievable how much money you can lose. It's tragic. A lot will be wiped out. They can't take it. They're passing grain through their hogs at a terrific loss."

Some hog men are getting out of the business for good this winter. They feel they have sunk below the breakeven point. "Lots of them are killing off their animals and going to Florida this winter, instead of slogging through the mud slopping pigs," says a member of the Chicago Board of Trade.

To the people on the other end of the food production cycle—the American consumers—there is something fundamentally baffling about the pessimism, the rising food prices, the threatened shortages.

Through the years of the country's failures in war, and disappointments in politics, there was always the comforting assumption that the United States was a land of agricultural abundance and inexpensive food.

And then, with unexpected speed, the country's vast reserves of grain were nearly gone and the prices of all the basic things people eat in order to survive soared upward. The situation is all the more puzzling because American farming is revved up to full power. Millions of reserve acres held back in the 1960s are back in cultivation.

Some of the changes seemed to defy the laws of economics. In 1973, for instance, the American croplands, which are the most productive in the world, yielded some of their largest harvests ever. Never before had there been so many cattle grazing on rich grasslands, or fattening in super-efficient feedlots.

Yet in that same year the cost of retail food rose more than 16 per cent, and American consumers paid out $20 billion more than the previous year for reduced quantities of beef, pork and eggs.

Between August and September, 1973, a pound of choice beef in the supermarket remained steady at a near-record $1.44, while the price that packing houses offered cattle owners slipped sharply, from $53.24 to $44.84 a hundred pounds.

Yet the livestock men's losses haven't been

translated into lower retail prices. This year, according to Agriculture Secretary Earl L. Butz, those prices will rise another 15 per cent.

It is still true, as John Gunther wrote in "Inside U.S.A." in 1947, that "the national stomach cannot possibly contain everything that the farms produce." So plentiful is the food supply that Don Paarlberg, director of the Agriculture Department's division of agricultural economics, says that the farms could support a tripling of the U.S. population, provided Americans were willing to consume a less tasty, though adequate, diet.

Americans still spend far less of what they earn for food than most other nationalities: 16.6 per cent in 1973. But the share is rising, and in 1973 American retail food prices climbed more sharply than they did in Britain, Italy, France or Japan.

Agriculture in America has always been a risk-filled venture at best. In the last two years, however, the money stakes have become enormous. Many are gambling blindly, knowing that the results will be determined by factors like world weather patterns and crop results in distant countries, all beyond local control.

This year's Midwestern drought, which severely damaged the corn crop, reminded Americans that they, too, are vulnerable to the ravages of nature, for all their strides in science and technology.

The ultimate, frenetic expression of the uncertainty is the din-filled trading floor of the Chicago Board of Trade, where commodity futures are traded. The prices fluctuate wildly, and brokers concede that they can only counsel clients to keep their fingers crossed.

"What am I supposed to tell a food processing plant in southern Illinois that needs to buy food for its production line?" asks a broker. "A year ago, everything was easy. They contracted with farmers directly for their corn. Now the farmers won't do that, so these poor guys have to come here and bid for the basic raw material of their trade. I try to help them where I can."

In their bewilderment, consumers feel somebody has to be at fault for the high prices: "middlemen," speculators, Russians, the grain companies.

But all those explanations are surely too simple.

For at least a decade before the inflation hit hardest, the world had been consuming more food than it produced.

That ominous reality was evident in a steady decline in the world's grain reserves. Through the 1960s, the world's population grew by 70 million people a year. Meat eating also increased steadily, as richer populations demanded better diets. That strengthened demand for feed grains with which to fatten animals, or soybean meal to raise chickens.

Americans were scarcely aware of these trends, however, because of the existence of an enormous government-held stockpile of grain (roughly 100 million tons in the early 1960s), which kept prices here far below world levels.

The United States couldn't sell, eat or give away all it produced. The psychology of surplus persisted even as stronger foreign demand began to whittle down the reserves.

Then, in 1972, nature dealt a powerful blow to much of mankind. Bad weather and droughts caused crop failures in the Soviet Union, Australia, South Asia and sub-Saharan Africa. Countries such as the Soviet Union made up for shortfalls with unprecedented purchases in international markets.

Japan and Western Europe also bought heavily. The result was that world grain reserves sank to a record low, and most of the American surplus simply drained away, as the U.S. government released more and more of it in a futile effort to dampen domestic prices.

Suddenly, U.S. grain prices had climbed to a par with those in the rest of the world. The international grain companies sold their holdings to the highest bidder, whatever the country. The padding of the protective American stockpile was stripped away. "The American housewife is now competing with housewives in Germany and India for basic foodstuffs," explains an executive of an Arkansas rice growers cooperative.

Even before that watershed was reached, the devaluation of the dollar in August, 1971, had set the stage for higher food prices and more foreign demand.

The step helped the U.S. balance of payments, because foreign buyers could acquire American food more cheaply than before. From 1972 to 1973, food exports rose from $9.4 billion to $17.6 billion. But it also stepped up foreign competition for American food, and gave an upward thrust to prices.

The step also increased the prices which American importers paid for a whole line of essential food commodities: sugar, coffee, cocoa, tea, bananas and beef.

Meanwhile, the general inflation began to hit all parts of the agricultural system. Corn—the basic feed for fattening cattle and hogs—rose from 92 cents a bushel in part of 1972 to $3.65 in August, 1974.

Farmers began paying dramatically more for most of the necessities of advanced agriculture: fuel, herbicides, electricity and fertilizer. As grain prices increased, farmers expanded the amount of land they cultivated and poured on more fertilizer to boost yields. This doubled the cost of nitrogen fertilizers, as surging demand outstripped supplies.

Land prices (and mortgage payments) rose sharply: In a rich, corn belt area of northwest Illinois, the price per acre has risen from $875 two years ago to $2,250 today.

Wilbur McKay, a farmer in Wilmington, Ohio, complains that "fertilizer is nearly twice as high, diesel fuel has doubled, repairs are up 30 to 40 per cent . . . We bought a new combine this year and from the time we ordered it until the time we got it, the price went up $1,500. There are little bits of shortages in everything."

These added farm expenses were less disastrous to consumers than the inflation which meat packers, millers, food processors and retailers felt.

The cost of the farm ingredients is a minor part of the final cost of most products in supermarkets. The wheat, non-fat dry milk, lard and shortening in a one-pound loaf of white bread selling at an average price of 34.7 cents cost only 6.1 cents to procure. The rest is labor, transportation, packaging, advertising, taxes—and profits.

These costs have risen sharply between 1972 and 1974. A year ago, it cost $1700 to ship a truckload of lettuce from the West Coast to the East Coast. Now it costs $3000, because of higher fuel prices and lower speed limits on highways.

Containers and packaging—major items in food costs—rose 18 per cent between last September and March.

By early 1973, the American food economy had cranked many of the inflationary elements into its prices. Then, in mid-1973, the housewives boycotted meat counters and the government froze retail prices. Those two events reversed a 14-year trend in the United States toward more meat consumption, and disrupted the system.

Thousands of cattlemen and operators of feed lots (where cattle are fattened on expensive grain and protein concentrates) miscalculated—ruinously and tragically. They held back in hopes of still higher prices. When the freeze ended, they rushed their animals to market. As volume swelled, prices for cattle were slashed. Consumer demand was weak. The meat pipeline became glutted. Still, supermarkets held the price line, perhaps to make up for losses during the freeze.

To consumers, the widening margins between farm prices and meat prices in the market looked abnormal. But economists say they may not have been. It's in the nature of U.S. agriculture that farm and retail prices are only loosely connected—and usually then only with long lag times.

Also prices which have reached a plateau are slow to come down. Retailers argued that they were locked into new, expensive labor and freight contracts which couldn't be reversed. The livestock men found themselves locked into a production line that couldn't be turned off.

Nonetheless, economists are still posing serious questions about the price margins between farm and store, which this year are expected to be 21 per cent wider than in 1973.

Somebody received the extra $20 billion for food shelled out by consumers in 1973. But who? Were consumers and farmers alike victims of a massive ripoff by profiteering middlemen?

The Federal Trade Commission is investigating the retail food industry in six cities now. Beyond that, consumer advocates charge that the nation's agribusinesses, wholesale conglomerates, meat packing empires and baby food and breakfast cereal producers are overdue for a hard governmental look.

"Economic power is very closely held in those areas," says one official. "The chance for noncompetitive price setting is certainly very great."

Demand for meat has picked up again this year, which means that the demand for feed grains will also stay high. Abroad, developed nations have shown little inclination to slow the increase in their grain consumption. Analysts in Chicago expect that the Soviet Union will go shopping again this year for grain, because it is still building up its livestock supply.

Export controls would immediately lower prices at home. The United States now exports a quarter of its corn crop, about half of its wheat and rice crop and about half of its output of soybeans and soybean meal. In some cases, it is the sole source of supply.

Controls would alleviate the impact of the drought-inflicted 20 per cent shortfall in the corn crop and maybe slow the killing off of animals. But such a step would have far-reaching international repercussions.

It could worsen the U.S. trade deficit. It could also persuade America's customers to retaliate by closing their markets to other U.S. commodities. It would also give oil producing nations a new argument for limiting their own exports of petroleum. Nutritionists note sarcastically that one by-product of export controls on corn would be to make it cheaper for Americans to continue overeating fatty beef.

The administration could also take the advice of cattlemen and block the import of over $1 billion worth of foreign beef a year. But such a step would hardly help American consumers, and it would infuriate European countries which already are grappling with a meat glut produced by their own angry farmers.

So far, the administration leans toward a wide array of less dramatic anti-inflation measures: reducing waste in the agricultural system, changing certain regulatory policies and working for reduced trade barriers.

"We're not at the last resort stage yet, but we could get there," says a senior government economist.

"We wonder how we muddle through," says a Midwestern agricultural agent. "I would say the word is frustration."

RESOLUTION ADOPTED BY THE CRAWFORD COUNTY FARM BUREAU

Mr. NUNN. Mr. President, I recently received a resolution adopted by the Crawford County Farm Bureau which outlines many of the problems confronting the farmers of their area.

I am deeply concerned about the plight of the farmers in Georgia and throughout the Nation and feel that the situations outlined in this recommendation should receive the attention of this body as well as the Department of Agriculture, the Environmental Protection Agency, and other Government officials whose action directly affects agriculture.

I ask unanimous consent that the resolution of the Crawford County Farm Bureau be inserted in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

The Crawford County Farm Bureau Resolutions Committee, would like to recommend the following resolutions to be studied and worked on to alleviate the situation.

SITUATION

The Farm-Retail Spread in the Consumers Market Basket in 1974 is 25.6% higher than in 1973, and 58% higher than 1967. The spread on food groups from 1973 to 1974, by food groups increased by these percentages: Meat 29.3; Dairy 21.8; Poultry 2.9; Eggs 8.9; Baking and Cereals 31.1; Vegetables 25; Fats and Oils 43.9.

The average increase in farm value of these products has only been 3.4% from 1973 to 1974. The average farm value of Meat Animals has decreased by 14.4% from 1973 to 1974. The cost of production has risen 50 to 100% on many farm products.

RESOLUTION

With these facts in mind we recommend that investigations be done and controls made to slow the profit of the middleman, and the increasing retail price, and to give farmers a larger percentage of the retail dollar.

SITUATION

Even though there have been efforts to eradicate the Fire-ant, the job has not been accomplished. Fire ant infestation is worse and in more areas.

RESOLUTION

We recommend that legislation be passed to override EPA controls, and that an eradication program be set up according to research findings that will complete the job.

SITUATION

We are told that a fertilizer shortage exists, and that this has caused an increase in the price.

RESOLUTION

We call on all Georgia farmers to discontinue the use of fertilizer or hold purchases to a minimum until production can supply the demand and the price be dropped to a reasonable figure.

SITUATION

There are shortages of many products which are essential for farm operation. Many times the shortage occurs when the products are held for higher profits, Example: Antifreeze, Baler twine.

RESOLUTION

Investigations be made into hoarding situations, and price controls be set up.

INFLATION

Mr. TAFT. Mr. President, the Government and the Nation have been extremely fortunate that during the economic summit and presummit meetings, some of the most accomplished leaders in the private sector have been willing to contribute their thoughts.

One of these leaders from the business sector is Ralph Lazarus, chairman of Federated Department Stores, Inc. Mr. Lazarus, who participated in the business and manufacturing conference on inflation held in Detroit on September 19, has long been a well-recognized spokesman from the business community. His constructive statements have been extremely helpful to the Government's consideration of many issues over the years.

I believe that a review of Mr. Lazarus' statement would be most helpful to my colleagues. Although it is far from the only important point in the statement, I would like to call attention to Mr. Lazarus' call for increased incentives to promote savings. Because this goal is important both as an anti-inflation and proinvestment device and for provision of relief to the distressed housing market in particular, I have introduced legislation which exempts the first $500 of savings interest from taxation.

I ask unanimous consent that the statement appear in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

COMMENTS BY RALPH LAZARUS, SEPTEMBER 19, 1974

Inflation is clearly America's number one problem today. We must agree as a nation to a course of positive action and then carry it out consistently and energetically. One caution, however—in our zeal to conquer inflation, we must not be so headstrong that we bring on a major recession.

If we are to prescribe, however, we should be certain we agree as to the basic causes of this serious illness. What are the underlying factors that have produced today's inflation? They are:

A world-wide boom in demand for key materials and goods. This is presently moderating;

Major declines and dislocations in world food supplies in 1972 and 1973;

Devaluations of the U.S. dollar;

Abrupt and major energy cost increases;

Shortages of capacity in key processing industries;

A major shift from productive investment to speculation;

Failure of Free World governments to exercise balanced fiscal and monetary policies.

Assuming these are the basic causes, then what principles should guide us as we seek to get things back on an even keel? Generally, we should attack the problem on three broad fronts. We should strive for a balanced Federal budget; we should positively encourage a major increase in personal savings and investments; and we should increase the country's production capacity.

In order to accomplish these things we must set as our highest priority the definition and adoption of economic policies which will, in both the short and longer run, encourage and promote the fullest and most productive use of all our resources—human, natural, industrial and financial. This should be done in a manner consistent with achieving and maintaining stability in prices.

The control of inflation will require that government, business, labor and the consumer shoulder the burden equitably. Economic statesmanship must come before politics as usual or business as usual.

I would suggest these guidelines:

It would be a mistake to restrict demand in such a way that would discourage expanded production.

We must encourage a substantial expansion of productivity.

We must develop a major increase in our industrial and resource-producing base.

Inefficiencies and inequities in our financial system which discourage investment must be eliminated.

The government of the United States must adopt, as a continuing program, the objective of a Federal budget in relative balance.

The Federal Reserve should set as its goal a steady, consistent growth in money which will not finance inflationary pressures or encourage inflationary psychology.

The United States has to exercise its leadership responsibilities in the free world and promote a cooperative approach to our mutual economic problems.

Now to the specific actions I would suggest:

In Government, the Administration and the Congress should commit publicly to the position that in Fiscal Year 1975, expenditures in the Unified Budget will be held below $300 billion.

This would require that the official budget be reduced by $5.5–$6 billion this year. In addition, we should seek a balanced budget or a small surplus in Fiscal 1976. I believe that national leadership should identify its priorities and state its position and reasoning to the public honestly and clearly as to necessary budget reductions.

Most important, I believe the Administration and Congress should adopt, as a long-range commitment, the position that expenditures in the Unified Budget in future years shall not be permitted to exceed their 1976 proportion of National Income. An exception would be made, of course, in those years defined by the Congress as periods of national military and socio-economic emergency. In addition, if this limit is exceeded then it must be offset by new taxes.

In Monetary Policy, the Federal Reserve must move gradually and consistently to decelerate money growth. This should be done at a pace consistent with the tempo of change in the Unified Federal Budget as it approaches balance in Fiscal Year 1976. However, recognition must be given to the conditions presently prevailing in the nation's financial system. Interest rates are at extraordinary levels. Capital markets are increasingly disorganized. Financial institutions, particularly thrift institutions, are experiencing severe disintermediation. It would be extremely unwise for monetary policy to move precipitously toward either restraint or stimulus.

The key consideration is that fiscal and monetary policy be coordinated and complementary. The onus of restoring stability to prices and to the nation's financial system mst be shared equally by the Federal government and the Federal Reserve. Fiscal and monetary policies in the months ahead must act in concert if inflation and financial distortion are to be ameliorated without severe damage to our economic system.

Business and Industry should make every effort to expand production and increase productivity. To assist this we should perhaps consider changes in taxation to encourage expansion of productive capacity. I would suggest a temporary 10 percent surtax on all corporate profits. This surtax would be remitted fully to corporations which, in the twelve months following the years covered by the surtax, invest or commit to invest an amount equal to their surtax liabilities in plant and/or equipment which improves either productivity or expands product capacity.

In order to ensure that incremental productive investment occurs, corporations would be required in the years covered to maintain their 1972/1973 proportion of capital spending to pre-tax profits—before qualifying for remission of the 10 percent surtax.

As to the Consumer, we should adopt policies which will help us achieve a fair balance between spending and saving.

Consideration could perhaps be given to the immediate exemption from Federal Income Tax Liability of all interest earned by families or individuals. As an alternative approach, we might consider exemption of interest earned by families or individuals up to annual limit of $750 or 10 percent of adjusted gross income—whichever is less. Those families or individuals with annual incomes under $7,500 could be given a tax credit for interest earned.

We might also consider ending the deductibility of interest paid by consumers on short term installment debts.

Fundamentally, this recommendation is made to recognize the need to eliminate existing disincentives to saving in the tax laws. As these laws now stand, interest paid in the process of consumption is subsidized, while interest earned through saving is penalized. This measure would not only treat the small saver more equitably, but would encourage reduced consumption at the taxpayer's option and perhaps, more importantly, also create a possible source of additional long-range funding for investment.

Congress should study the desirability of making inflation accounting mandatory—such things as LIFO and replacement depreciation. This would allow individual companies to generate their own capital to finance the inflation segment of their inventory and maintain the efficiency of their plants.

If loss of government receipts from corporate profits throws the Federal budget out of balance then the corporate tax should be increased to offset it. They should also allow corporations to report loss of earnings because of inflation accounting to its shareholders.

Finally, I believe the U.S. should reaffirm its commitment to cooperation in international economic affairs. Leadership must be demonstrated in such vital areas as monetary reform, trade liberalization and resource development. As we have learned to our cost, inflation girdles the globe. Controlling such a world-wide condition cannot be solely the responsibility of any one nation or part of a nation. Everyone must make the effort and sacrifices which will be required.

FAIRNESS DOCTRINE IS UNFAIR

Mr. PROXMIRE. Mr. President, a corollary to the Federal Communications Commission's fairness doctrine is the personal attack rule. Briefly stated, that rule requires that when one person attacks another on a broadcasting station, the station must inform the person attacked, give details, and offer a chance to reply.

That sounds fair.

But the same idea, written into Florida law to apply to newspapers, was ruled unconstitutional by the Supreme Court this year in *Miami Herald Publishing Co.* v. *Tornillo* (94 S. Ct. 2831).

The Miami Herald on September 27 editorialized on the fairness doctrine in an editorial headlined, "Fairness Doctrine Is Unfair."

Here is a newspaper that knows what freedom of the press is about. It carried its fight to the U.S. Supreme Court and won. The Court's landmark decision said in part that—

The Florida statute fails to clear the barriers of the First Amendment because of its intrusion into the function of editors.

The Herald editorial did not mention the case to which it was a party. Yet, it recognized that the fairness doctrine also has difficulty clearing the barrier of the first amendment.

Mr. President, I ask unanimous consent that the Herald's editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FAIRNESS DOCTRINE IS UNFAIR

Freedom of the press is guaranteed by the Constitution, but one large segment of the media must operate with a wary eye on a set of highly restrictive government regulations.

Put forth in the name of "fairness," these regulations enforced against broadcasters by the Federal Communications Commission often have the effect of stifling the free and open airing of controversial issues, especially at the local level. They also lead to endless litigation, with more than 30,000 complaints filed against stations in the last five years alone.

True fairness is a matter of integrity and cannot be effectively enforced from Washington by applying mathematical formulas to particular cases under rules such as the famous "equal time provision." There are better ways to insure fairness. Any broadcaster who consistently acts unfairly can be checked by members of the public who tune away. A sustained pattern of unfairness can be a legitimate cause for complaint at license renewal time, when it becomes a proper concern of the FCC.

But day-to-day government meddling in the content of broadcast programming has proved to be unwise for several reasons. For one thing it is unnecessary. As Sen. William Proxmire pointed out in criticizing the "fairness doctrine," newspapers generally manage to be fair without government restraints. Broadcasters deserve the same freedom.

In addition, government meddling is unwise because it is self-defeating. Instead of encouraging the free exchange of ideas, it has led stations to avoid controversial topics for fear of encountering the expense of litigation or facing a challenge to license renewal.

Finally, any government meddling with an important segment of the media bears watching as a potentially dangerous situation. Letting a federal agency be the final arbiter of "fairness" confers immense power, especially when the same agency has life-and-death power over broadcast licenses.

For these reasons, then, we concur with Sen. Proxmire in his call for elimination of the FCC's authority to act as arbiter of fairness in the day-to-day decisions of broadcasters about program content. It is the only fair thing to do.

SENATOR MATHIAS PROPOSES SOLUTIONS FOR OUR POLITICAL AND ECONOMIC PROBLEMS

Mr. HATFIELD. Mr. President, one of the most serious problems facing our Nation is the growing loss of confidence of many Americans in our political and economic institutions. The test of our leadership today will be whether or not we act decisively and wisely to deal with the underlying causes of this widespread concern.

In a recent speech before the Jaycees of Bowie, Md., the senior Senator from Maryland (Mr. MATHIAS) addressed the twin problems of political corruption and economic deterioration and suggested a series of positive steps which this Congress should take forthwith. I believe Senator MATHIAS' remarks deserve the attention of a wider audience, and accordingly, I ask unanimous consent that they be printed at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

POLITICAL AND ECONOMIC REFORMS SHOULD GO HAND IN HAND

(By Senator MATHIAS)

For the past decade, the American people have been besieged with mounting political corruption and steady economic deterioration. Our Constitution has been ignored, bypassed, or frontally assaulted. Our free enterprise system has been undermined and distorted by leaders in both the public and private sectors.

It is time to admit that the economic problems of today will not be solved by economists alone, but rather, they will be solved only when we recognize that they are inescapably intertwined with political failings.

Consider these examples:

A complacent, lethargic, antiquated Congress forfeited in the past two decades its two most fundamental responsibilities—the war-making power and the power of the purse.

One result was that billions of dollars, millions of hours of American labor, and thousands of young American men were devoted to an unwanted and unnecessary war which bypassed the Constitution.

Another result is that Congress has permitted the Federal government to run a deficit of $160 billion in the past decade, despite the fact that we know that billions of dollars are wasted in programs that don't work, or programs for which no standards exist to determine whether or not they are working, while proven programs are continually under-funded.

We became so absorbed in the Vietnam quagmire that we totally ignored an energy crisis which was forecast by Presidential Commissions more than two decades ago.

We have permitted huge conglomerates, such as ITT, to play on political weaknesses in Washington in order to gain special treatment to escape from the reach of our anti-trust laws, and from the healthy discipline of competition and the free market.

Our tax system continues to bear down on the middle class, while the well-to-do and multi-national corporations continue to exploit special loopholes, and yet Congress is about to adjourn without even a serious debate on tax policy. Public confidence in the equity of Federal taxes has plummeted so low that Treasury officials predict serious problems of enforcing even the most basic rules.

For 25 years we paid huge subsidies to farmers not to grow food, and now we face serious shortages both at home and abroad.

These examples can be multiplied many times over, but the point is clear—the well-being of our political and economic systems go hand-in-hand.

And so we must push programs that deal with both. Domestically, these must include:

Reform of political campaigns so candidates do not have to depend on "big money from special interests."

Full disclosure of the personal finances of all elected officials and candidates.

Reform of Congressional procedures so that Congress will be fiscally and socially responsible and a positive partner in the Federal government.

Immediate action by the Federal Reserve to gradually lower interest rates.

Revision of the Nation's anti-trust laws, which were written more than 70 years ago, so that they make sense in modern times and are strictly enforced.

Tax reform so everyone pays a fair share and no more.

Relief for those hurt most by stagflation, including public service jobs, liberalized unemployment compensation, and fuel stamps.

Farm policies that pay farmers to produce rather than not to produce so there is more food in the stores at lower prices.

In addition to these domestic initiatives, we must attend to the international aspects of our economic problems.

The largest price increases in the past year have concerned fuel, food, and basic raw materials—all of which are high on the list of items traded among nations.

Economic problems are thus international in scope, and while U.S. leadership is essential to a solution, we cannot solve the problem in isolation. Cooperation among nations is the only way.

Western nations cannot ignore the quadrupling of oil prices by Arab nations. While we push a strong energy conservation program at home, and develop new energy sources on an accelerated schedule, we must work with other oil importing nations to ensure the economic and political integrity of all nations. As Secretary Kissinger and President Ford have pointed out, there is no higher priority for the United Nations or other international organizations than these related problems of food and fuel.

These are some of the domestic and international programs which I believe are important and on which most Americans can agree. But we will make progress on this agenda only if our political institutions are more responsive and responsible than they have been in the past. There are some encouraging signs that this may be the case.

One was the enactment, just this summer, of the Congressional Budget Reform law. This measure recognized and dealt with the fact that the economic realities of Federal budget deficits were traceable to structural problems within the Congress itself.

Its passage is a major step forward, and it demonstrates, I believe, that our political and economic problems are solvable. Whether we build on this beginning depends in large part on the interest and concern displayed by citizens such as yourselves.

AIR FORCE ASKED TO PROBE C-5A CRASH

Mr. PROXMIRE. Mr. President, the crash and total destruction of a C–5 aircraft a week ago will cost the taxpayer about $60 million, the amount it took to build each of the giant cargo planes.

The C–5 is mainly noteworthy for the mammoth $2 billion overrun that broke the record for overruns on a single weapons system and also broke the taxpayers' heart.

I am informed by the Air Force that the plane was in a training flight on September 27, 1974, when a fire broke out and cabin and hydraulic pressure were lost.

The plane crash-landed near Clinton, Okla., and was totally consumed by fire. All crew members survived.

The Air Force is following its usual procedures in investigating what is being called a one-of-a-kind accident.

Training flights have been discontinued temporarily but operational flights continue.

Until the Air Force investigation is completed there is no way of knowing the cause of the accident.

Pilot error does not seem to be a factor. Indeed, the pilot saved the lives of the crew by his skillful handling of the crash landing.

I will reserve my judgment until all the facts are in and the Air Force announces its conclusions. I am asking the Air Force to provide me with its findings as soon as they are available.

It does seem curious that another of these expensive airplanes has been destroyed by fire. There have been serious structural problems with the C–5 and we can only hope that it is not basically unsound.

QUESTIONING HAIG'S ROLE

Mr. PROXMIRE. Mr. President, this morning's article in the Washington Post by Walter Pincus raises some disturbing questions about the role of Gen. Alexander Haig in the Nixon administration.

He states that:

General Haig has a highly selective and disciplined memory and is adroit at devising a version of events that, in those instances, neatly served the Nixon Administration by providing less than the whole truth.

Mr. Pincus then goes on to document a number of these instances of "less than the whole truth."

There is the question of the wiretaps that documents say General Haig authorized for William Safire and Henry Brandon, both correspondents, which Haig says "are puzzling to me."

General Haig cannot remember the authorizations for Anthony Lake and Winston Lord although documents show he gave the names to the Justice Department.

And then there is General Haig's advice to John Ehrlichman that it might be better to delay the Ellsberg trial until after the November Presidential election. Can anyone deny that this is a political general speaking?

Mr. President, the Senate seems to be delaying on taking any action with regard to General Haig.

I would like to suggest a compromise with regard to the Haig confirmation. The Army says General Haig does not need to come up for confirmation because he already has the rank necessary for the job. I believe that to be a bureaucratic circumvention of the "advice and consent" power of the Senate.

Nonetheless there is controversy on this point. As a compromise I ask the Armed Services Committee to request that General Haig appear before the committee in open session without prior restrictions, to answer any and all questions but not with reference to a confirmation vote. Surely General Haig will want to clear the air and discuss the serious questions raised about his role in the Watergate tragedy.

Mr. President, I ask unanimous consent that the Walter Pincus article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

QUESTIONING HAIG'S ROLE

(By Walter Pincus)

Critics of Gen. Alexander Haig, Jr., have asked Sen. John Stennis to hold hearings before his Armed Services Committee on the former White House staff chief's appointment by President Ford to be supreme allied commander in Europe. The NATO post unlike that of army chief of staff which Haig turned down, does not require Senate confirmation—at least that is what Department of Defense lawyers have ruled. But this is a major appointment, and if there are doubts, a Senate committee hearing would give Haig an opportunity to answer questions about the role he played in the Nixon White House.

If such hearings ever come about, the senators who would cross-examine the general had better bone up on their man. Three Haig appearances—before the Senate Foreign Relations Committee on the Nixon so-called "national security" wiretaps, before Judge John Sirica's inquiry into the missing and erased White House tapes, and at the trial of Daniel Ellsberg—show that Haig has a highly selective and disciplined memory and is adroit at devising a version of events that, in those instances, neatly served the Nixon administration by providing less than the whole truth.

On July 30, 1974, Haig testified under oath before J. W. Fulbright's committee. With not much enthusiasm, the committee had agreed to look into Henry Kissinger's part in the 1969–71 wiretapping of White House aides, government officials and newsmen. The day of Haig's appearance, the House Judiciary Committee gave final approval to the three impeachment articles, one of which referred to wiretapping as an example of Mr. Nixon's abuse of power. After reviewing more than 100 FBI wiretap reports that had been sent to the White House, the committee majority found the wiretapping had been used to gain domestic political intelligence and not merely information relevant to national security. Haig said he had no individual responsibility for the wiretaps: "I never viewed myself as anything but an extension of Dr. Kissinger . . . I would never presume to do anything in this area that I had not discussed with him or had specific authority for."

FBI records list Haig as the requester of taps on 12 of the 17 individuals concerned. He said he only received orders to tap four individuals directly from the President on one occasion, May 2, 1970, at the time of the Cambodian invasion. Haig gratuitously added that he believed that Kissinger was with the President "or had just left him" when Mr. Nixon called. Haig also testified that "all other names that I ever conveyed were names given to me by Henry." He was just the errand boy.

When the senators got down to specific names, Haig again danced away from responsibility. The first four who had been tapped were National Security Council staff members Morton Halperin, Daniel Davidson and Helmut Sonnenfeldt, along with Gen. Robert E. Pursley of the Pentagon. Though Haig is listed on the records as the one who brought the four names to the FBI on May 10, 1969, Haig said he "did not consider that I was bringing any names over then. I was confirming a program that had already been approved at the highest level by the director (J. Edgar Hoover) . . . I think quite frankly those names came from the director because they expressed, they represented his concern regarding a number of people on Henry's staff." That statement is supported both by Kissinger and, to a degree, by other facts. Where the new Haig/Kissinger version of events gets thin is when it comes to Gen. Pursley. Haig and Kissinger knew Pursley was aware of the secret Cambodian bombing.

Hoover was not. So Pursley was substituted by Haig, and the FBI records confirm that. That fourth man Hoover originally wanted to tap, London Sunday Times correspondent Henry Brandon, was subsequently tapped beginning May 29, 1969. And though Haig's name was on the request for that tap, as well as one initiated two months later on then White House speechwriter William Safire, Haig swore he did not ask for them. "They are . . . puzzling to me," he testified.

Both Haig and Kissinger blanked out on the May 13, 1970, taps on the phones of Anthony Lake and Winston Lord, Kissinger's past and present personal assistants. Kissinger said he did not remember requesting them and Haig, who is listed in the FBI records as bringing the names to the bureau, also could not recall doing so—but he added that if he had, Kissinger would have given him the names.

Haig's involvement in the tapping program, now that the impeachment issue has been shelved, needs clarification, as well as another aspect of his activities stemming from that program.

In April 1973, Haig, then army vice chief of staff, appeared in uniform at the trial of Daniel Ellsberg. He was to counter the testimony of Halperin, who had appeared on behalf of Ellsberg. Outstanding at the time of Haig's appearance was the trial judge's order that the government turn over any wiretaps on Ellsberg and those of his consultants, of whom Halperin was one. Haig had not only reviewed the Halperin tap as a member of Kissinger's staff, but he also was probably aware of Ellsberg's calls picked up from the tapped Halperin phone.

On the stand at the Ellsberg trial, Haig coolly attempted to discredit Halperin's prior testimony by stating the former NSC aide never had access to the most sensitive information on the Vietnam negotiations. This was not the first time Haig had shown interest in the Ellsberg case. In December 1971 he sent a memo to Nixon aide John Ehrlichman citing information he had received that Ellsberg planned to use his trial as a political event. Haig wondered "if it wouldn't be the better part of wisdom to seek to have the trial delayed until after November" and the presidential election.

How much was Haig involved in efforts to keep the White House tapes from becoming public? And in what way were his actions just "an extension of Richard Nixon"? Less than a month after Haig replaced Haldeman as White House Chief of Staff, Haig, according to a June 4, 1973, White House tape, was urging the President to attack former White House counsel John Dean, calling Dean a "son-of-a-bitch" and agreeing that Haldeman could handle any problem associated with the famed March 21, 1973 conversation between Dean and the President.

In late September 1973, it was Haig who arranged for Nixon's secretary, Rose Mary Woods, to go to Camp David to type up transcripts of the tapes, assisted by Nixon aide Steve Bull. When Bull was unable to locate two of the subpoenaed conversations, it was Haig to whom he passed on that information.

Early the following month it was Haig who went to Sen. Stennis to ask that Stennis serve as a verifier of the tapes, in a plan that eventually led to the dismissal of Special Prosecutor Archibald Cox. Haig, according to Stennis aides, never told the Mississippi senator that any tapes were missing. In November 1973, at the height of the White House campaign to have Mr. Nixon overcome his critics by telling the "truth" with "operation candor," it was Haig who took responsibility for withholding from the President the news that there was a gap on one tape. Mr. Nixon assured GOP governors that day there were no more bombshells coming. It was also Haig who suggested to a group of congressmen that former Attorney General Elliot Richardson may have been drinking during negotiations that led up to the Cox firing.

Is Haig to be taken on faith, by the Congress, by the public, by NATO? It would be better to have a full accounting from him of his past conduct. The Senate Armed Services Committee has the responsibility to order that accounting.

SENATOR RANDOLPH BELIEVES GASOLINE TAX INCREASE WOULD BE INEFFECTIVE AND INEQUITABLE

Mr. RANDOLPH. Mr. President, I was relieved to read in the newspapers today that President Ford apparently has rejected the suggestion that the Federal gasoline tax be increased by 20 cents a gallon.

If this report is correct, then the President has wisely turned down an ill-advised recommendation—one that would have done great harm and would have been counter-productive.

As I understand it, the proposed 500-percent boost in Federal gasoline taxes was intended to reduce fuel consumption and to finance programs to help the poor in this time of economic hardship. I seriously doubt that it would have achieved either purpose.

As with any such tax, the burden would have rested most heavily on the shoulders of those least able to support the additional cost. Even with the complicated system of tax credits for those who use less than 500 gallons a year, the poor and those who have no alternative form of transportation would have no choice but to pay.

The greatly increased tax may have stimulated more use of public transportation. There are many parts of this country, however, where public transportation is woefully inadequate or simply nonexistent. Rural residents, miners, and construction workers, often must travel long distances to work. The additional 20 cents a gallon would increase their cost of earning a living, reduce effective income, and contribute to the very economic conditions we are trying to correct.

Our experiences of last winter indicated that higher costs will not significantly affect gasoline consumption over the long run. The most recent report from the Department of Transportation shows that the amount of gasoline bought in the United States is now higher than at the same time a year ago. At best, today's higher prices were only temporarily effective in dampening demand. Other factors, chiefly short supplies, contributed earlier this year to the downturn in fuel consumption.

Mr. President, I am gratified that the President turned a deaf ear toward those advocating a 20-cent increase in gasoline taxes. Much more realistic and workable methods to cut fuel consumption are available. I hope the President will seek them out and support them. It is time for the Federal Government to stop public policy being dictated in too great degree by persons who have had minimal association with the problems of working people. They know little of the severe impact on most Americans of such regressive measures as the gasoline tax increase.

A substantial and permanent reduction in energy consumption in the United States is essential. It can be achieved without imposing hardship on working people. Positive action would contribute greatly to the restoration of economic stability. We would also slow the depletion of our energy supplies and advance our environmental goals if we realistically cut back on energy use, particularly that produced by petroleum.

The idea of an additional 20 cents tax on gasoline was mercifully short-lived. I know we will receive more workable and better reasoned proposals to resolve the twin dilemmas of expensive energy and economic instability.

THE AMERICAN DOUBLE STANDARD OF JUSTICE: THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, there is not a single proposal that has been before the Senate as long as the 25 years of the Genocide Treaty. Similarly, seldom does legislation come before the Senate which would restore the integrity and good faith this Government has possessed in the area of international affairs.

However, until this body agrees with these assertions, the very integrity and good faith of this Government will continue to be questioned by many nations of the world.

One significant example of this double standard occurred in 1964, when the U.S. delegation to the U.N. vigorously endorsed a Costa Rica proposal that would have created an independent office, the high commissioner for human rights. The commissioner would function as an international ombudsman. This proposal would have marked a significant breakthrough in the area of international human rights enforcement.

Representatives of the Soviet Union denounced the Americans who "resolutely refused to accept legal obligations" through ratification of the Genocide Convention. They claimed that the United States was "hypocritical" to advocate the establishment of special human rights institutions in the international field under the existing circumstances.

Indeed, this feeling was exemplified by testimony given by former U.N. Ambassador Arthur J. Goldberg, before a subcommittee of the Senate Foreign Relations Committee in March 1971. He stated:

> When I was United States ambassador to the United Nations, I was often asked to explain our failure to ratify the genocide convention. Frankly, I never found a convincing answer. I doubt anyone can. It is inconceivable that we should hesitate any longer in making an international commitment against mass murder.

I appeal to my colleagues sense of integrity and logic. After 25 years, it is inconceivable that we should hesitate any longer in ratifying the Genocide Convention Accord, and thereby make an international commitment against mass murder.

RETURN TO THE GOLD STANDARD

Mr. GOLDWATER. Mr. President, on the evening of October 2 it was my distinct honor and pleasure to have ad-

dressed the 85th Beefsteak Dinner of the Columbia Club in Indianapolis, Ind. My remarks there were directed at the need, in my opinion, to return to the gold standard.

If my memory serves me correctly, no country in the history of the world has survived unless its money was backed by gold, and we, certainly, are no exception.

I ask unanimous consent that this presentation be printed at this point in the RECORD.

There being no objection, the presentation was ordered to be printed in the RECORD, as follows:

RETURN TO THE GOLD STANDARD

(By Senator BARRY GOLDWATER)

Our Nation is passing through one of the most serious peacetime crises in its history. It is a monetary crisis popularly known as inflation. Throughout the course of history many countries have experienced serious inflation, sometimes with disastrous results as in the cases of France and Germany, leading to the loss of precious freedoms and to dictatorships. I don't wish to see that happen here.

Both President Nixon and President Ford have made important public addresses in recent weeks emphasizing the importance of curing the dollar's inflationary disease but one word, which has great bearing on the necessary remedy, was missing in both speeches. It is the word gold. This is not surprising, for our beloved nation has been brainwashed for forty years, as in Great Britain, with Keynesianism which dismisses gold as a "barbarous" metal and endorses the use of political power to achieve "full employment" as a monetary guide.

Ever since the administration of Franklin Delano Roosevelt, who embraced the economic views of John Maynard Keynes, the intellectual theorists, dreamers and other Keynesian disciples, have had great influence in policy making in our Government. They have penetrated deeply into politics. I have here a list of seventy distinguished economists, including a Nobel Prize winner, who bent every effort to elect Senator McGOVERN, the Democratic candidate for the Presidency in 1972. The list includes former members of Presidential economic councils. They all advocated more Government control in the true spirit of Keynesianism.

Their candidate was overwhelmingly defeated in the election but the episode distresses me for the restoration of confidence in our dollar and again making it a store of value, as William McChesney Martin urged a few years ago, cuts across party lines.

How did we get into the current monetary mess? It began forty years ago when two Cornell professors persuaded FDR to raise the price of gold as a cure for a raging business depression. This action required confiscating the gold holdings of the people, so they would not profit from an increased price of gold, and devaluing the dollar.

Far more serious was the destruction of the sanctity of contracts which used the gold clause for the protection of the contracting parties.

When the grave moral issue involved in that momentous step reached the Supreme Court, a five to four decision upheld the Government's stand, but the minority termed the devaluation "counterfeiting" and stated: "Loss of reputation for honorable dealing will bring us unending humiliation; the impending legal and moral chaos is appalling." How prophetic! The chaos is here with a vengenance.

The current helplessness of the people to understand the complexity of money is not relieved by the practice of some intellectuals to clutter their economic papers with mathematical formulas giving the impression of erudition and scientific finality. If you don't believe it, examine the report on inflation prepared for the use of the Joint Economic Committee in 1972. Incidentally, the cure suggested was more Government control.

This reminds me of the observation of the late Canadian economist with a sense of humor, Stephen Leacock of McGill University who remarked:

". . . Most of all, if we can't understand it let's see that outsiders don't. Let's dress up economics in esoteric language, give it a jargon of its own, and break away from the plain terms like labor and profit and money and poverty. Let's talk of "categories" and "increments" and "margins" and "series." Let's call our appetite for breakfast our consumer's marginal demand. That will fool them. And if I buy one cigar but won't buy two, call that my sub-marginal saturation point for nicotine."

It is not necessary to be an economist to understand a monetary fundamental principle today. It is the simple issue: which is better, a Federal Reserve note redeemable in gold at will, or the kind of paper money in use currently, a greenback, which is not redeemable? The quality of our money is just as essential as the quantity printed.

It is almost unbelievable that it has taken forty years to return the traditional right of Americans to own gold bullion without fear of criminal penalty. Where have the liberty loving Americans been during the interval? No wonder the remedial congressional act has been strongly resisted by Keynesians for it marks the first step toward the restoration of the gold standard, unpalatable as that may be to them. It impairs their political influence and power.

The struggle for a sound dollar has been advanced. Contracts may again use the gold clause as protection against further devaluation of the dollar. Fundamentally there is no escape from gold.

If we are to continue to print irredeemable greenback dollars, the door is open wide for the international speculator in currencies. This can lead to disaster. Observe the recent failure of the Franklin National Bank in the United States and the failure of the Herrstatt Bank in Germany resulting from foreign exchange speculation. Are more on the horizon? I hope not, as the Federal Reserve has limited rescue power.

And yet, if political decisions are to govern the destiny of the dollar, the temptation to speculate becomes attractive given inside or outside information of Government plans. Self preservation may also play a role. Government pronouncements may not be reliable. Note, for example, the statement of the Secretary of the Treasury Connally, in Munich, Germany, as recently as May of 1971. He said that "We are not going to devalue. We are not going to change the price of gold. We are controlling our inflation." Three months later the gold window was closed! Moreover, the dollar was devalued not only once, but twice, later on.

Is that the kind of a monetary system best for Americans based upon political announcements warranting not only skeptical but also some move for self protection? Of course not, but that is why I am reconciled to more monetary trouble until the dollar once again is redeemable in gold. It may take a long time as it did after the Civil War, but that national experience has a lesson for us today. It shows that when the Civil War greenbacks became convertible into gold until the beginning of World War I, which ruined the gold standard, the price level showed no inflation and was remarkably steady.

It is unquestioned evidence confirming the conclusion of the late great international monetary expert, Ludwig Von Mises that:

"The eminence of the gold standard consists in the fact that it makes the determination of the monetary unit's purchasing power independent of the measures of governments. It wrests from the hands of the economic Tsars their most redoubtable instrument. It makes it impossible for them to inflate. That is why the gold standard is furiously attacked by all those who expect they will benefit by bounties from the seemingly inexhaustible government purse."

Incidentally, when 1879 rolled around the citizens returned gold to the banks; they did not withdraw it to cash their greenbacks!

But let's face it, the forces against a return to the gold standard are dishearteningly powerful. Consider the position of many respected business and banking leaders who, in the committee for economic development's report on strengthening the world monetary system, advocate the international adoption of green backs knows as special drawing rights and ultimately doing away with gold absolutely as a monetary reserve. The store of value quality in money is to be destroyed. How typically Keynesian. It will be interesting to observe how many Middle Eastern petroleum producing countries accept special drawing rights in place of dollars, or gold. As one distinguished French economist, Rene Berger, has stated, special drawing rights are an insult to intelligence.

The entire world is witnessing an amazing spectacle, Great Britain, the cradle of Keynesianism, appealing to Iran for financial assistance to ease its monetary predicament. This is ample evidence to convince me that the Keynesian road is not one for our Nation to travel.

Oddly enough, John Maynard Keynes was a strong advocate of the gold standard back in 1922. But the attraction of political power to achieve economic ends during a serious depression evidently overrode his scruples.

The late great economist and teacher, Wilhelm Roepke, has wisely noted that John Maynard Keynes, like Karl Marx, will go down as a great intellectual ruiner in history. Roepke's observation about the gold standard in his classic text "The Economics of a Free Society" is worth repeating here.

"The most finely spun theories on the stupidity of the gold standard, all the clever satires on mankind's frenetic digging for the yellow metal, and all the ingenious schemes for creating a goldless money will never change the truly remarkable fact that for thousands of years men have continued to regard gold as the commodity of highest and surest worth and as the most secure anchor of wealth."

Strong as our dollar continues to be and vast as the resources of our country, nevertheless, Europe and the Middle East will have a lot to say about the kind of money acceptable internationally and without question. And let us not forget the growing trade with the socialist nations. Recently the president of the Bank of Hungary called for an international currency based upon gold. This is not surprising as trade between any nations, whether free enterprise or socialistic, depends, in the last analysis, upon mutual trust and confidence. Gold supplies that ingredient.

For guidance in the current monetary crisis we would be wise to ponder the words of a great humanitarian president of the United States, who never took a cent of salary for his services to the Nation. Listen to these words from a much maligned servent of the people—indeed the whole world—Herbert Hoover:

"Currency convertible into gold of the legal specifications is a vital protection against economic manipulation by the government. As long as currencies are convertible, governments cannot easily tamper with the price of goods, and therefore the wage standards of the country.

"They cannot easily confiscate the savings of the people by manipulation of inflation and deflation. They cannot easily enter into currency expansion for government expendi-

tures. Once free of convertible standards, the executives of every 'managed-currency' country had gone on a spree of government spending, and the people thereby lost control of the public purse—their first defense against tyranny. With 'managed currency,' international exchange rates come under the control of the government. The consequence is currency war, as their manipulators in the end invariably seek to shift international prices to the supposed advantage of their own country. Uncertainty of values robs people of their power to test values and lessens their initiative. Depriving the people of confidence in their currency plants a fear in their hearts which causes them to hestitate in pursuing productive enterprises and renders them dependent upon the government. A convertible currency is the first economic bulwark of free men. Not only is this a question of economic freedom, but more deeply it is a question of morals. The moral issue lies in the sacredness of government assurances, promises, and guarantees.

"Civilization moves forward on promises that are kept. It goes backward with every broken promise."

SENATOR RANDOLPH STRESSES CRITICAL PROBLEMS OF ALCOHOLISM — MAGAZINE ARTICLES ARE CITED

Mr. RANDOLPH. Mr. President, alcoholism continues to be one of the most critical social problems confronting our Nation. It affects all segments of our citizenry. This week the National Institute on Alcohol Abuse and Alcoholism reported that one-third of the Nation's 9 million alcoholics are women, and that 5 percent of the high school population gets drunk once a week. The latter statistic is dramatically emphasized in a stark series of television programs currently being broadcast by Washington's WTOP Channel 9. The series, entitled "Not My Kid," illustrates the contention of NIAAA's director, Dr. Morris E. Chafetz, that many teenagers are turning from marihuana and other drugs to the most accessible and most abused drug of all—alcohol.

When we translate the statistics of alcoholism into terms of human suffering, into lost jobs and lost hopes, into illness and death and destroyed lives, the problem of alcoholism ranks as one of the most disastrous epidemics of our society.

Dr. Chafetz also notes that women comprise the largest increase in the problem-drinking population in recent years. In the September issue of the Lion magazine, published by Lions Clubs International, author Paul Martin writes a chilling portrayal of the so-called hidden alcoholic. He contends that the number of women afflicted by alcoholism, mostly housewives, may account for almost half of the total number of alcoholics in America. Because of understandable protectiveness by their families, many of these victims of the Nation's No. 1 drug problem go uncounted in the statistics, until disablement or death occurs. I commend this article along with another service magazine article on the drunken driver, and the harsh legal measures being taken in Norway to get the drunken driver off the road. Since alcohol is involved in about half of the highway fatalities in America, the Norwegian measure might be worthy of close study.

Mr. President, I ask unanimous consent that the Lions' article be placed in the RECORD, along with the Rotarian story on Scandinavian efforts to curb the incidence of drunken driving.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Lion magazine, September 1974]

SHE'S THE HIDDEN ALCOHOLIC

(By Paul Martin)

Mary Benson is a university graduate who lives in a comfortable middle western suburb in a four-bedroom home on a quiet tree-lined street. Her husband is a steel company executive. They have a boy and girl in grammar school and a son in his third year of high school. Now in her late 30s, Mary is no longer active in the P.T.A. She spends far less time with old friends than she did a few years ago. Sometimes a friend will stop by during the day to visit. No one responds to the doorbell's ring, though Mary's car is visible in the garage and she seldom walks anywhere. Twice in the past 18 months she's been away from home for several weeks. Her husband explains that his wife had gone to take care of her parents in Nebraska.

Mary Benson is a 9-to-3 alcoholic. She is one of several million women alcoholics in the United States. Many are shielded and protected by families ashamed to let others learn of their problem. Current estimates point to nine million alcoholics in the country. Authorities in the field figure that women account for anywhere from 30 to 50 percent of this number.

Phyllis Snyder, executive director of Chicago's Alcoholic Treatment Center, leans toward the 50 percent figure. "We're sure that half of all alcoholics are women, but we can't find and count them, because it's so easy for them to hide at home. In my experience, the woman alcoholic is more disturbed than the male alcoholic. She is more likely to use tranquilizers or barbiturates to avoid the pain of facing problems. The husband frequently does not want his wife known as an alcoholic and may object to her going to A.A. to get well."

Studies indicate that the hidden housewife alcoholic is typically between 35 and 55 years old and from the middle, upper-middle or upper economic groups. Her family works full time at keeping the word of Mother's drunkenness from seeping out into the community. If she goes to the hospital to dry out, the family invents a trip to explain her absence. In some instances, the family moves frequently in an effort to conceal the truth from the husband's employer, the family's friends and the children's playmates.

Prone to prescription drugs, the housewife alcoholic often becomes heavily addicted to pills prescribed by a doctor who is unaware of her drinking problem or ignorant of the lethal effects of combining alcohol with other drugs. Frequently she switches completely to pills because they give her the effect she seeks without any revealing odor. More than 10 million housewives regularly and legally use a stimulant or depressant prescribed by a physician. This is not necessarily a safeguard. One of every 20 hospital admissions in the country is for adverse reactions to legally prescribed drugs.

Dr. Robert Fairburn, a St. Louis psychologist, recently declared that more than 15 percent of the wives in the United States are addicted to alcohol or pills by the time of their eighth wedding anniversaries. In his view, the swift pace of today's society creates shattering confusions for many women. They are torn between caring for their husbands and children and trying to find an identity in the world outside their homes. The frustration drives them to alcohol or pills and sometimes a combination of both.

One of the country's foremost authorities on alcoholism, Dr. Seldon Bacon, is director of the Center of Alcoholic Studies at Rutgers University. "Since it is quite difficult for a wife to tote a bottle wherever she goes," Bacon explained, "pills provide her with the perfect answer. There's no odor, they're small, and she can always tell curious people she's taking them for medicinal purposes.

"As a matter of fact, they've become so popular that if you stopped 50 wives at random on the street, you'll find a majority of them have at least two kinds of pills in their pocketbooks. With men, on the other hand, you'd be lucky if you found any at all."

Against this chilling background, the addiction to alcohol complicated by pills looms as one of our most costly and baffling health problems. The A.M.A. declared alcoholism a disease in 1956. Today it ranks third in the nation, behind heart disease and cancer. Alcoholics account for 31 percent of the suicides in the nation, a rate 58 times higher than for non-alcholics. Alcoholism is a leading cause of broken marriages and emotional problems.

Out of every 100 women admitted to a mental hospital for the first time, 50 suffer from alcoholism. About 60,000 persons will be killed in automobile accidents this year and alcohol will figure in at least half of these deaths. Almost 7 million workers in the United States have drinking problems. Contrary to the views of many, less than 5 percent of the nation's alcoholics are found on Skid Row. Finally, and perhaps most significantly, each alcoholic adversely affects the lives of at least four other persons.

Unhappily and unfairly, some of these other persons are not yet born when they are affected. One of the most shattering effects of a mother's uncontrolled drinking is fetal damage during pregnancy. Dr. Kenneth Jones at the University of Washington directed a study showing that children of alcoholic mothers are born with malformations and suffer growth deficiencies thereafter.

The doctor studied eight children who were not related and found that each of them suffered from some malformation of the head, the face, legs, arms or the heart. Each one of these children had an alcoholic mother who drank heavily during pregnancy. Five of these mothers had been treated for cirrhosis of the liver although their average age was only 31. Six of the children have been hospitalized because they were not thriving. Three of the eight are in foster homes today. All of the children were below normal in intelligence, weighed less, were 20 percent shorter than the average infant and were all *permanently* retarded in growth. In a shocking conclusion, the research group headed by Dr. Jones estimated that as many as 20 percent of alcoholic mothers give birth to deformed children.

For thousands of years men and women have been attracted to alcohol as a way to change their lives without changing themselves. It offers a welcome respite from the harsh reality of tiresome responsibilities and in most countries of the world 70 to 90 percent of the adult population drink: alcohol in some form. In many cultures alcohol has been used sacramentally as an avenue to higher levels of consciousness and through the ages has played a key role in the lives of a significant percentage of men and women in almost every corner of the world.

In the United States about 90 million persons drink alcohol. About 10 percent of this group drink destructively enough to be classed as alcoholics. Somewhere between 3 million and 4½ million of these problem drinkers are women. Dr. Marvin Block, the Buffalo physician with extensive experience in the field of alcoholism, says the number of alcoholics among women actually equals or exceeds the number among men.

Dr. Ruth Fox of New York, widely known

for her work in alcoholism, defines the disease as a "behavioral disturbance in which the excessive drinking of alcohol interferes with the physical or mental health of the individual. It is usually accompanied by a disturbance in the interpersonal relationships within the family, in the work life, and in the social environment. It is also an addiction, which means that there is both an emotional and a physiological dependence on the drug alcohol."

Why does a woman drink and become an alcoholic? A clinical psychologist at Harvard Medical School, Dr. Sharon C. Wilsnack, studied a group of 20 young women for their reactions after two drinks. They reported feeling warm, loving, considerate, expressive, pretty, affectionate, sexy and feminine. She reviewed several studies on female alcoholics that suggest they are concerned about their adequacy as women and confused about their own sex roles. According to these studies, the alcoholic drinks to alleviate this confusion.

Dr. Vernelle Fox, a well-known authority on alcoholism treatment, points to stress as a major factor in the house-wife's growing dependence on alcohol. Dr. Fox lists specific examples:

The middle-aged women who finds life meaningless because her children are grown and her husband is married to his business.

The young wife and mother who is unable to deal with the pressures of keeping house and raising her young children.

The wife who has become unhealthily dependent on her husband and suddenly finds herself having to face life without him.

The wife who seeks solace in the bottle because her husband is gone most of the time.

A mentally retarded or emotionally disturbed child who may create a painful stress situation for the mother.

The pressures of entertaining coupled with the husband's outside schedule may prove overwhelming.

Any of these problems will become vastly more difficult if there are substantial economic difficulties at the same time. As the wife's drinking becomes more severe here family grows more distant and her feelings of isolation and hopelessness become more acute. So she drinks some more.

Helen R. has been sober for nearly eight years in Alcoholics Anonymous and provides some additional insights on why homemakers become alcoholics. "Women often associate the beginning of their uncontrolled drinking with some shattering emotional experience," she said. "It might be a divorce, an abortion, the loss of a particularly close family member, a severe snub, a bad depression following childbirth, guilt concerning a sexual experience, perhaps moving to a new and not very friendly community. With every alcoholic housewife I've known, however, it turns out that the problem drinking began after a substantial period of social drinking that had effectively reduced boredom, tension, shyness, anxiety, fear or frustration.

"Once she gets into compulsive drinking there will be a clearly marked deterioration in her relationships with others, especially those close to her. At this time she may make a superhuman attempt to keep up her looks. She may start making long, semicoherent phone calls while drunk that betray her secret to her friends. The alcoholic housewife has a rare and distinctive talent for concealing liquor around the house. She may hide it in a hot water bottle, an ice bag, the flush tank of the toilet, hat boxes, the bottom of a cereal box, in the vacuum cleaner. They all serve as hiding places for the woman who needs to drink to keep going. I heard of one case where the husband of a lady lush took away all her clothing to keep her from going out for liquor and she still managed to hide a pint of Scotch in her Bikini."

Experienced workers in the field of alcoholism say that at this stage the housewife loses interest in her home, neglects cleaning, meals are hit or miss, she becomes increasingly withdrawn and hides from social obligations, women's groups and community affairs. As her husband watches this unfold he is likely to deny the reality of the situation because he desperately hates to admit that *his* wife is a drunk. Sometimes the children prefer things this way because with Mother drunk they can do what they want. A look at police records reveals that even if the alcoholic housewife is arrested she is treated much more leniently than the male alcoholic. Often she is not even booked but sent home in a cab or a friend or relative is called.

Helen continued, "None of us can ever get help with our drinking problem until we stop lying about the state of our lives and quit blaming others for what we're doing. My family tried to protect me, but my marriage was a mess, my children were totally bewildered and our home was a shambles. All of this in spite of the fact that few of our friends knew the extent of my drinking. Once I admitted my problem there was a chance for me to begin with the recognition that I'm an alcoholic and can't ever drink and control it."

Responsible opinion in the field of alcoholism agrees that once an alcoholic crosses the line into alcoholic drinking, that individual can never again become a controlled drinker. "The aim of therapy for the alcoholic," says Dr. Ruth Fox, "is not only total and complete sobriety for life but a better functioning in all areas . . ." Periodically, treatments spring up claiming to retrain alcoholics into social drinkers but invariably further investigation of the glowing claims shows that it just hasn't worked out that way.

Little can be done for the alcoholic housewife until *she* decides to do something. Threats, anger, cajolery, appeals for the children; none of these will have any permanent effect. The decision to stop drinking remains up to the individual because short of incarceration, there is no way to keep an alcoholic sober against his or her will. Once the tippling homemaker admits her dependence on alcohol and declares her willingness to do whatever is necessary to get well, she has taken her first major step toward recovery.

Alcoholics Anonymous has by far the best record in helping the problem drinker stay sober. In his book, *Alcoholims: Mechanisms and Management*, Dr. Max Hayman says, "There is no longer any question that Alcoholics Anonymous has been responsible for the sobriety of more alcoholics than any other method—social, religious or medical."

For the alcoholic housewife who has reached the point of surrender, help is as close as her telephone because A.A. is listed in the telephone directory of virtually every community in the United States. Each member is encouraged to stay away from the first drink a day at a time and work the Twelve Steps of the recovery program that rebuild the individual into a person who can say "No thank you" to a drink and make it stick.

Each alcoholic affects the lives of at least four other persons and there is help, too, for the family of the alcoholic housewife. Often badly battered by her erratic behavior, the husband can turn to Alanon and the children will find help in Alateen, two organizations not specifically a part of A. A. that can be reached by calling the A. A. number in the phone book. Sometimes the husband with an alcoholic wife subtly resists her recovery because as long as she stays drunk she is far easier to manipulate and control and this factor may cause severe problems when she stops drinking and begins to get better. Alanon can be of substantial aid in this situation.

The nation's No. 1 drug problem, alcoholism reaches into the lives of some 45 million men, women and children in the United States and its cost in human suffering is beyond calculation. When the housewife finally faces the truth of her uncontrolled drinking then, and then only, she becomes able to accept the help that will save her life. It begins with the fundamental truth that she will be an alcoholic as long as she lives and can never again safely take one drink.

ARE YOU AN ALCOHOLIC?

To answer this question, ask yourself the following questions and answer them as honestly as you can either "yes" or "no."

Do you lose time from work due to drinking?

Is drinking making your home life unhappy?

Do you drink because you are shy with other people?

Is drinking affecting your reputation?

Have you ever felt remorse after drinking?

Have you gotten into financial difficulties as a result of drinking?

Do you turn to lower companions and an inferior environment when drinking?

Does your drinking make you careless of your family's welfare?

Has your ambition decreased since drinking?

Do you crave a drink at a definite time daily?

Do you want a drink the next morning?

Does drinking cause you to have difficulty in sleeping?

Has your efficiency decreased since drinking?

Is drinking jeopardizing your job or business?

Do you drink to escape from worries or troubles?

Do you drink alone?

Have you ever had a complete loss of memory as a result of drinking?

Has your physician ever treated you for drinking?

Do you drink to build up your self-confidence?

Have you ever been to a hospital or institution on account of drinking?

If you have answered yes to any one of the questions, there is a definite warning that you may be an alcoholic!

If you have answered yes to any two, the chances are that you are an alcoholic.

If you have answered yes to three or more, you are definitely an alcoholic.

NOTE.—(The above test questions are used by Johns Hopkins University Hospital, Baltimore, Md., in deciding whether or not a patient is alcoholic.)

[From the Rotarian magazine]

IN NORWAY DRINKING AND DRIVING DON'T MIX

(By C. Hart Schaaf)

The accused is an attractive and well-dressed 26-year-old woman employed as a factory technician in Oslo. When her car lurched from the street onto a lawn there was no collision; no one was hit or hurt. But police suspected she had been drinking, and she was found to have a Blood Alcohol Concentration of 0.18 percent. Now she must pay the price: 24 days in jail.

In the drunk driving wing at the police detention center are others who pay the price, too. A dentist there says he is thoroughly ashamed and is considering moving to another town. A chimney mason laments the loss of his driver's license in addition to his imprisonment. The lesson is obvious. In Norway, common sense and the law dictate that driving after even one small drink isn't worth the risk.

Since 1926, Norwegian law has required a *minimum prison sentence of three weeks* for virtually any driver found with a Blood Alcohol Concentration (BAC) of 0.05 percent or more (five or more drops of alcohol per 1,000 drops of blood). A two-ounce whiskey

and soda, a strong martini, or two bottles of beer can produce this result in a person of medium weight and normal metabolism.

With years of experience, Norway's police have developed simple but sophisticated techniques to detect drivers who have been drinking. To begin with, they have the right to stop any driver at any time to inspect his license. Then comes a first test. Policemen say that if a driver looks at the officer as he hands his license and car registration through the car window, he probably has not been drinking. But if, however cooperative and amiable, he looks away, he's probably trying to conceal an alcoholic breath.

But the law requires more concrete evidence, so a policeman may invite a suspected driver to take a roadside breath test. The driver inflates a six-inch plastic balloon, blowing through a glass mouthpiece containing golden chemical crystals which breath-alcohol turns green. If that happens, the office escorts the suspected drunk driver to a doctor for a *mandatory* blood test (or sometimes a urine test, if the driver claims to have hemophilia). A few drops of blood are extracted from an earlobe or finger; minute quantities are placed in spaghetti-like glass tubes and sent to the National Forensic Laboratory for independent examination by six different technicians. The coordinated finding goes back to the police.

All sentences require a court judgment. The judge may not impose a sentence of less than 21 days, but he may exercise discretion regarding extension of sentence beyond 21 days and imposition of costs. He may also—although this almost never happens—decree that extenuating circumstances warrant a suspended sentence, usually with a fine in lieu of imprisonment. Such a sentence might be appropriate, for example, for a father who after a few evening drinks finds he must rush a sick child to a hospital when no taxi or other conveyance is available.

Conviction in drunk driving cases also results in suspension of a driver's license for at least a year and sometimes permanently. Drunk driving is also heavily penalized by Norwegian insurance regulations. A drunk driver causing an accident receives no insurance compensation, nor is insurance paid his estate if his accident is a fatal one. His insurance covers third-party losses, but insurance companies sue insurees for repayment.

Another deterrent against driving while intoxicated is that about four months has generally elapsed between blood test and court summons; and another four between sentence and imprisonment; all these delays are harrowing, and psychologically discourage future misconduct.

Norway's 0.05-per cent BAC limit, stringent imposition of three-week-minimum jail sentences, withdrawal of driving license, and rigorous insurance regulations make this Scandinavian country's approach to drunk driving probably the toughest in the world.

Does the hard-boiled Norwegian approach actually curtail drunk driving and produce fewer accidents? The answer appears to be yes. In 1970–72, detailed studies financed by the government and several foundations were directed by Dr. Olav Bø, a leading surgeon in accident emergency cases who is also a skilled social statistician. Autopsies were performed on all traffic fatalities, and police and hospital accident reports were scrutinized. The findings: only 2.8 per cent of *all drivers stopped* had any blood alcohol whatsoever. The tough, impartial penalties *do* deter.

Spot checks are conducted regularly. In Oslo, for example, motorists have learned to expect them about once a month. During one such chcek, 2,000 drivers were stopped at scattered points in the city between 10 p.m. Saturday and 2 a.m. Sunday. Only 16—less than one per cent—had BACs of 0.05 per cent or more.

An amazing aspect of the no-nonsense Norwegian strategy for drinking and driving is that, in other areas of life, Norwegian attitudes are considered to be rather easygoing. The prison population per capita is the second lowest in Europe. Thoughtful Norwegian literature for years has extolled social freedom; frayed jeans, long hair, and girlie magazines are the fad in Norway as elsewhere. Traffic swirls densely and swiftly. Gross national product per captia is fifth highest in the world, topped only by the U.S., Canada, Switzerland, and Sweden.

Norwegians are anything but non-drinkers. The U.S. Department of Health, Education and Welfare reports Norwegian consumption of 1.13 gallons of absolute alcohol per person per year.

This contrast between stringency toward drunk driving and leniency otherwise was illustrated in a case in which a stereo radio was stolen from a man's car. "If they catch the thief, they'll give him a sympathetic lecture and dismiss him," bemoaned the robbery victim. "But if I'm caught moving my car from the street to the garage after having a martini, I'll go to jail!"

Yet Norwegians support the tough rules. The current Norwegian government, elected in October, 1973, confirms that they plan to retain the 0.5-per cent BAC legislation and that it has not been a matter of political discussion or controversy.

Enforcement costs are reputed to be slight. There are no special police or courts, and forensic laboratory equipment, though expensive, is durable and simple to operate, making cost per examination very low. Prison expenditure is offset by working the prisoners, mostly in forests, where unskilled labor is always in demand. And in considering the cost-benefit ratio one must also take into account the value of property *not* damaged or destroyed, of human bodies *not* twisted and maimed, and human lives *not snuffed out*.

In addition to the threat of imprisonment, Norway attacks the problem from a more positive angle. Many motivational programs, under both government and private auspices, are carried out in schools, among civic groups, and through the media. Notable are the continuing campaigns of the Norwegian Temperance Automobile Association. Professor Jacab Molland of the Oslo University Medical Faculty, a world authority on alcohol use and abuse, characterizes the overall effort. "Drinking," he says, "is an ancient problem going back to Biblical Old Testament days and before. But drinking as it affects driving is a modern problem. In Norway we believe that a modern society should equip itself with a full spectrum of modern measures, ranging from motivational to punitive, to combat this modern problem."

Other countries might do well to emulate Norway's approach. Although governmental and nongovernmental programs continue to multiply around the world, traffic accidents involving alcohol mount steadily. Statistics from the United States exemplify the trend. Of the annual traffic death toll of more than 56,000, at least half are attributable to alcohol. And the rate of alcohol involvement in traffic deaths in the U.S. is swelling cancerously. It was 18 per cent a generation ago, compared to 50 per cent today. Many countries are having similar problems.

Shouldn't the governments of all people who care about traffic safety and saving human lives arm themselves with what Professor Molland calls a "full spectrum" of measures to combat this deadly and increasing menace? Norway's experience provides an answer worth serious consideration.

(NOTE.—C. Hart Schaaf is a longtime United Nations official who gained international recognition when he supervised development of the Lower Mekong Delta from 1959–1969. A Rotarian and prolific author, he now serves as U.N. Resident Representative in Sri Lanka.)

U.S. POLICY TOWARD CUBA

Mr. GURNEY. Mr. President, last Saturday evening, Cuba's Fidel Castro decided to give another vitriolic anti-American speech. In and of itself, that would not be new, but the fact that it was given—in stronger than usual terms—while two of our colleagues were in Cuba for a visit, underlines the fact that Castro is totally disinterested in any sort of meaningful improvement in relations between the United States and Cuba.

Not only did Castro deliberately attempt to embarrass our colleagues, and it seems evident that the reason he allowed those 29 reporters to cover the visit and the speech was for the purpose of embarrassment, but he attacked our President, he attacked our policies, and he spewed forth rhetoric that suggests not a relaxation of Cuban-American tensions but a heightening of them.

For instance, Castro, in his speech, called not for the readmission of Cuba to the OAS but for an OAS that would not include the United States. Moreover, in the space of four paragraphs, the Cuban dictator termed the OAS "shameless, discredited, prostituted, ridiculous, faint-hearted," and "an instrument in the worst tradition of neo-colonialism"—even as that organization prepares to meet in Quito next month to consider lifting the trade embargo against Castro.

And, speaking of the trade embargo, Castro gave no indication of wanting it to end. Instead, he encouraged the oil-producing nations to use oil prices and revenues as an economic lever against the United States and other nations of the free world. The irony of Castro talking about making things tougher for us economically at the same time consideration is being given to making things easier for him economically cannot, and should not, be overlooked.

Mr. President, I have repeatedly stated my opposition to the reopening of diplomatic ties with Castro, the sale of cars and trucks to Castro, and the ending of the trade embargo against Castro until such time as Castro is willing to change his policies toward us. Last Saturday night Castro made it once again clear—he underlined it in fact—that he intends to make no changes in policies. In fact, by making such a speech while our colleagues were in Havana, he has indicated that the only things he is interested in are those that would benefit him, the Soviet Union and the rest of the Communist-bloc world.

If Castro had truly been interested in making the visit of our two colleagues into something other than an anti-American propaganda show, he could have talked about cutting ties with the Soviet Union, or about ending his exportation of revolution to the rest of the hemisphere, or about compensating U.S. businesses for the properties he expropriated, or about releasing the tens of thousands of political prisoners from Cuban jails, or

about restoring freedom to the 8 million-plus Cubans who have been subjected to such ruthless tyranny these past 15 years.

But he mentioned none of these things. Instead, he stepped up his attacks on the United States and encouraged others to get tough with us. As far as I am concerned, as long as he feels that way, there is no reason for anyone in this country, or elsewhere for that matter, to have the slightest reluctance to be tough with him. Dealing with Castro strictly on his terms will contribute nothing to either Détente or the cause of world peace.

Mr. President, as time goes by, I intend to go into this Cuban business more thoroughly. It is important that the American people know that Castro has changed neither his tune nor his backers and that doing business with him—until he has a change of heart—would be a grave mistake indeed.

Mr. President, I ask unanimous consent to have two newspaper articles and Fidel Castro's speech printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 30, 1974]

CASTRO BLASTS UNITED STATES DURING SENATORS' TRIP

HAVANA, September 29.—As the first U.S. senators to visit Cuba in 13 years watched on television, Prime Minister Fidel Castro attacked President Ford in one of the harshest anti-American speeches he has delivered in recent years.

Speaking last night to hundreds of thousands of Cubans celebrating the anniversary of the grass-roots Committees for the Defense of the Revolution, Castro assailed the involvement of the U.S. Central Inteligence Agency in Chile and said the United States alone is responsible for the world economic crisis.

Alluding to President Ford's recent defense of CIA funding of groups opposed to the late President Salvador Allende of Chile, Castro said: "The new president of the United States, to the surprise and stupefaction of Latin American public opinion, has declared that such actions were carried out in the best interests of the United States.

"Thus, the government of the United States proclaims openly the right to intervene by any means, regardless of how illicit, dirty or criminal, in the internal processes of the nations of the hemisphere."

Castro, who in speeches over recent years had toned down his criticism of the United States, made his remarks on the same weekend that the first members of Congress were visiting here since before relations were broken in 1961.

Sens. Jacob K. Javits (R-N.Y.) and Claiborne Pell (D-R.I.) watched the speech on television at the home of the Swiss charge d'affaires, who handles U.S. interests here.

The senators later had dinner with Castro. They were scheduled to return to Washington Monday.

Javits and Pell both expressed disappointment with Castro's speech. "I thoroughly disagree with him and I will tell him so," Javits told reporters before the dinner.

"I am here to see if something can be done to improve relations, and I stress the word 'if'," Javits said.

Only hours before Castro spoke, Javits told newsmen after a meeting with Cuban Foreign Minister Raul Roa that it was his clear impression that Cuba was prepared to discuss a more normal relationship with the United States.

Castro's speech was unusually short, 45 minutes, but was devoted exclusively to his grievances with the United States. Half of the address dwelt on Ford's appeal to oil-producing countries for a lowering of oil prices.

Castro said international inflation is a result of American policies. Alluding to the "hundreds of billions of dollars" the United States has spent on its "war budget" Castro said: "In these deplorable imperialistic policies are the roots of inflation, which emerged long before the oil price increases."

Twenty-nine American journalists, the largest group admitted to Cuba since relations were broken off, were given privileged positions in the stands near Castro as he spoke in the Plaza de la Revolucion above a sea of waving Cuban flags.

Castro also lashed at the Organization of American States, which is to meet in Ecuador in November to vote on lifting the trade embargo imposed on Cuba in 1964.

Describing the OAS as a "prostitute, shameless and ridiculous" and an instrument of the worst form of neocolonialism," Castro called on Latin American states to form an organization excluding the United States. During their visit here, Javits and Pell have met with many top Cuban leaders as well as visiting several showcase places of interest and walking freely through the streets of Havana.

[From the Washington Star-News, Sept. 29, 1974]

CASTRO ASSAILS UNITED STATES DURING SENATORS' VISIT

(By Merwyn K. Sigale)

HAVANA.—Cuban Prime Minister Fidel Castro delivered a severe attack on the United States and President Ford last night on the eve of a planned meeting with two U.S. senators here testing the climate for U.S.-Cuba detente.

Castro devoted all of a 45-minute speech to criticisms of U.S. policies, dealing mainly with intervention in Chile affairs and what he said were threats by Ford against oil producing countries over rising prices.

"The strategy of the United States is clear," he said. "It is to solidify the capitalist countries, divide the nations of the Third World and isolate the oil-producing nations. For this it threatens them with a food crisis and war."

Castro said that Ford recently justified the actions in Chile as being in America's best interests. "Thus, the United States proclaims the right to intervene for whatever reason in the internal processes of other peoples," the Cuban leader said.

Sens. Jacob Javits, R-N.Y., and Claiborne Pell, D-R.I., did not attend the speech in Havana's Plaza of the Revolution before tens of thousands of persons who applauded frequently. An aide said the two senators chose to stay away.

But Castro did not seem to close any doors to detente. He reaffirmed past views in the toughest language, suggesting that he possibly wanted to serve notice that Cuba would not abandon its principles for detente.

Earlier yesterday, Javits and Pell said that the time for detente seems to be "propitious" and that they sensed the Castro regime was reviewing its policy towards Washington. They gave newsmen their impressions after conferring with Cuban Foreign Minister Raul Roa for more than an hour.

Apart from Castro's tough speech, his regime appeared to be signaling that it views the Javits-Pell visit—the first by any U.S. official in a dozen years—as a significant step.

They were given a cordial but not effusive welcome Friday, granted appointments with high Cuban officials and taken on a whirlwind round of sightseeing that ranged from department stores to a block party to night-clubbing at the Tropicana.

All of that took place in the full glare of publicity, which was obviously encouraged by the Castro regime. The 29 reporters from the United States who flew in Friday—the largest number admitted in at least seven years—were allowed to cover every activity of the senators, except for sitting in on their private talks with high officials.

In addition, the presence of the senators and the reporters was publicized in the Cuban press and radio, though without comment on its significance:

The senators, both members of the Foreign Relations Committee, said the admission of so many American newsmen may represent a greater breakthrough than their own visit.

After the session with Roa, Javits said it was clear that "some day, somehow, somewhere, some normalization of relations will have to take place. The time does seem to be propitious." He added that it was his "feeling, based on the totality of their approach in their conversation," that the Cubans were reviewing their own policy toward Washington.

The Senators exchanged views with Roa on the grievances each country has toward the other. Javits said he and Pell were "taking the very strong position that whatever is done, if anything, is very bilateral. There is lots that Cuba would have to do to satisfy the people of our country. . . ."

Javits said some of the questions he and Pell raised with Roa involved Americans held in Cuban jails, Cuban political prisoners, the seizure of "enormous properties" without compensation, and the separation of Cuban exiles from their families still living on the island.

According to Pell, Roa countered with complaints about the U.S. economic boycott of Cuba, the treatment of Cuban U.N. diplomats, U.S. policy on visas, and the 1961 Bay of Pigs invasion. Pell said that when Roa brought up the Bay of Pigs, he countered with the 1962 Cuban missile crisis.

"He listened, just as we listened," said Pell. "We emphasized throughout that we were not here to negotiate, we were here to listen and to relay reaction back and forth."

The session with Roa preceded a lunch with Deputy Premier Carlos Rafael Rodriguez, Castro's chief diplomatic troubleshooter, and a call on President Osvaldo Dorticos.

Earlier, Javits and Pell discussed briefly one possible avenue for U.S.-Cuban cooperation—that of public health. Pell said it came up "tangentially" in a meeting with Public Health Minister Jose Guttierre Muniz.

FIDEL CASTRO ADDRESSES CDR ANNIVERSARY COMMEMORATION RALLY

(Speech delivered by Prime Minister Fidel Castro at Revolution Plaza, Havana, marking the 14th anniversary of the Committees for Defense of the Revolution.)

Guests, Comrades of the party leadership and of the government, comrades of the Committees for the Defense of the Revolution (CDR): exactly a year ago on this same square on the occasion of another anniversary of the CDR founding, we held a gigantic event in solidarity with the Chilean people and in tribute to the heroic President Salvador Allende. (Applause) Since then, the bloodiest and most grotesque tyrannies mod- Chilean people have endured one of the ern times can recall. In the wake of 11 September 1973, tens of thousands of Chileans have been tortured, murdered, jailed or banished by the ferocious and bloody government which emerged from the Fascist military coup.

Hundreds of thousands of workers have lost their jobs. The nationalized industries have been returned, for the most part, to the former owners, and Chile's doors have again been opened to the penetration and domination by foreign monopolies. Finally, as an additional service to Imperialism, in recent days the Fascist junta shamelessly vio-

lated the Cartagena Agreements by granting special privileges to foreign investments, and, threatening the very survival of the Andean Pact in which many South American countries place their hopes for development and economic integration, the fascist Junta has given of itself everything that its imperialist masters expected and has had the bitter results which a stirred up public opinion of all the world's people expected from the sad events.

The enormous wave of solidarity in all the world's nations, generated by the Chilean tragedy, has not weakened with the passing of time. On the first anniversary of the heroic death of President Salvador Allende, his figure is enlarged before the eyes of the world public opinion and the peoples are doubling their condemnation and repudiation of the Fascist junta. No event in recent time has really hurt world sensibility so much or produced such unanimous repudiation in all corners of the world. No government is so unpopular and morally isolated as the Chilean Fascist government.

And what is it that in recent days has generated the fullest world public indignation? What is it that makes even more grotesque and repugnant the role played by the Chilean Fascist clique? The full and confessed confirmation of U.S. Government participation in the process which ended with the overthrow and death of President Allende (remainder of sentence drowned in crowd chanting.) U.S. officials then were quick to deny what everyone suspected—the responsibility of that country's government in the Chilean events. After 1 year, it has been learned, with the luxury of details, that the CIA intervened shamelessly in the Chilean process under orders of the highest U.S. leaders during 10 consecutive years so as to prevent, first, a triumph by the popular unity (UP), to block assumption of the government after the (UP—FBIS) victory, and finally, to work actively on the overthrow of President Allende.

It is known today—from the release of the report by CIA Director William Colby before the House of Representatives Armed Services Committee's Intelligence Subcommittee on 22 April 1974 and other revelations by CIA agents published by the U.S. Press itself—that in the 1964 elections the CIA delivered to the Christian Democratic Party $3 million, to support its candidate, Eduardo Frei, against Salvador Allende; that in 1970 elections, the CIA invested huge sums to again block the triumph of the popular candidate; that the same year after the victorious election of the popular forces, it invested $350,000 to bribe the Chilean Congress not to ratify Allende's election; that immediately after the UP government was constituted, the CIA spent $5 million in support of opposition candidates and to influence the news media; and lastly, that in the summer of 1974, the CIA financed the counterrevolutionary demonstrations, truckers and shopkeepers strikes in which tens of thousands of Fascists participated, and other events which directly led to the criminal and treacherous coup of 11 September of that year.

These large amounts of money were negotiated in the black market above official rates, thereby contributing to the speculation and aggravating monetary difficulties.

Without considering the close relationship between the Pentagon and the Chilean armed forces to which they (the U.S.—FBIS) continued supplying arms, while the popular government was suppressed all credits in the United States and in international financial organizations controlled by the United States, the CIA clearly played a decisive role in the creation of conditions and preparation of the groundwork for the Fascist coup which has caused so much mourning, blood and tragedy for the Chilean people.

The Central Intelligence Agency and the top U.S. officials who promoted and heated up that policy are directly responsible for the thousands of Chileans who have been tortured, murdered, jailed and banished, and for the awful conditions of repression, unemployment and poverty which millions of persons are now suffering in that sister country.

The pure, revolutionary and heroic blood of Salvador Allende, (applause), assassinated on 11 September, ineradicably stains before history the U.S. rulers. Out of the long list of acts of aggression by that country against Latin American countries—which go back from the invasion and occupation of half of the Mexican territory in the last century to today, from the despoilment of the Panama Canal Zone, interventions in Cuba, Nicaragua, Mexico, Haita, Santo Domingo, Guatemala and so forth: some of them in the past, others current, overt or covert, to first take over and later loot the natural resources of our peoples and subject them to its dictates and interests—few have been so repugnant, sordid and treacherous as this immoderate interference in the domestic affairs of Chile.

If it is true that responsibility for such events falls on previous U.S. administrations, the new President—to the surprise and amazement of Latin American public opinion—has declared that such events were carried out for the sake of the best interests of the United States. In other words, the U.S. Government at this point in time openly proclaims the right to intervene by any means, regardless of how illegal, dirty or criminal they might be, in the domestic processes of the people of this hemisphere, as long as the reactionary and niggardly interests of that country make such intervention advisable.

Is this not, perhaps, a flagrant contradiction of all the standards of international law and the fundamental principles which rule the United Nations? Is it not against the international agreements and treaties imposed by the United States on the people of this hemisphere? What does the shameless OAS have to say about this (applause, cheering), the discredited OAS, the prostituted OAS (cheering)? Can anyone imagine that there remains even an atom of virtue, or moral authority, or reason for existing, from that ridiculous and faint-hearted institution? (Shouting from the crowd).

Let us say so frankly. The ones largely responsible for these events are those who were accomplices of the United States in its aggression against other Latin American countries, those who tolerated, seized on and even supported events such as the overthrow of Arbenz in Guatemala, the massacre against Panamanian students and people in the Canal Zone, and the invasion of Santo Domingo by the Yankee Marine Corps in 1965.

How about the history itself of U.S. acts of aggression in the OAS against the Cuban revolution? How about the economic blockade, the Giron invasion, the piratical attacks from Central American countries and Miami, and the subversion, terrorism and sabotage fomented by the CIA against our people for many years? It cannot be forgotten that in its policy of aggression against Cuba, the United States bought the shameful complicity of many governments by distributing among them the sugar quota and spoils of the Cuban economy.

Is it so strange that—with elemental lack of respect and consideration toward our peoples—the United States has now confessed and justified intervention in Chile, while it threatens Venezuela and Ecuador, among other oil-producing countries, with reprisals of hunger and even worse if they do not yield to its demands of reducing the price of oil? Will it be, perhaps, the OAS—an instrument in the worst tradition of neocolonialism—which will defend, integrate and politically unite the peoples of Latin America in the face of U.S. haughtiness and dominance? (Crowd chants "No")

The African countries have their organization of African states in which South Africa, Rhodesia or Europe is not included. And those African people, who recently reached the world of independence and are incomparably poorer than Latin America, have on the other hand a much higher and worthy concept of the meaning, functions and rule of a pure regional organization. (Applause).

The United States on the one hand and the Latin American and Caribbean countries on the other are two worlds as different as Europe and Africa. There is no room for both in the same community. The Strait of Gibraltar, which is a miniscule sea, separates them there. Here we are separated by the Rio Grande and the Florida strait.

THE FLORIDA STRAIT

In both cases, it is a technological chasm and absolutely different cultures. The United States is already a great community. The peoples of Latin America and the Caribbean still have ahead the historic (task) of forming theirs, as the indispensable condition for freedom, development and survival. And that can never be achieved in unworthy promiscuity and hodge-podge (relations) with the United States. (Applause.)

Together, our peoples will have sufficient strength to give ourselves the security and guarantee that neither the Inter-American Mutual Assistance Treaty nor the OAS have ever offered vis-a-vis the domination, aggressions and interferences of the United States.

Moments ago I mentioned the U.S. threats against the petroleum-exporting countries—two of which are in Latin America, Venezuela and Ecuador—in demand of a cut in prices. The way the petroleum issue has been posed, in usually harsh terms, by the U.S. President and other leaders of that country, at the United Nations and at the Ninth World Energy Conference in Detroit—where the Yankee authorities in fact prevented Cuba's participation by denying visas—gives it dramatic profiles.

In a concerted and perfectly blueprinted action, the leaders of that country have demanded that the petroleum countries reduce prices, holding them responsible for the imminence of a worldwide economic crisis and threatening them with possible varied reprisals. The U.S. press agencies themselves have taken it upon themselves to particularly stress the dramatic nature of those pronouncements. And they have not lacked a basis for it.

In Detroit the President of the United States said, textually: throughout history, states have gone to war, contending for natural advantages such as water, food or more accessible land or sea routes. But in the nuclear era any local conflict can become a world catastrophe. War creates risks that are unacceptable to all humanity.

He added: in the nuclear era there is no reasonable alternative to international cooperation. And further on he stated: sovereign nations strive not to depend on other countries which exploit their own resources to the detriment of other states. Sovereign nations cannot allow the policy they should follow to be dictated, nor that their fate be determined by means of artificial manipulation and distortion of world product markets. No one can predict the extent of the damage or the end of disastrous consequences if countries refuse to share the goods nature gave them for the benefit of all humanity. Last week at the United Nations General Assembly I said that any attempt made by one country to employ a product with political aims would inevitably tempt other countries to use their products for their own ends.

And in conclusion, he asserted: It is very difficult to talk of energy problems without falling into apocalyptical language.

The U.S. President's remarks were complemented by similar statements from the U.S. Secretaries of State and Treasury. The U.S. strategy is quite clear: to closely group under its direction the developed capitalist

countries; to divide the nations of the Third World and isolate the petroleum-producing countries with the aim of imposing U.S. conditions on them. And for that, it not only threatens them with food reprisals but even war.

In the first place it is unjust to blame the petroleum countries for the worldwide inflation and the international monetary crisis. The responsibility for such problems fundamentally rests with the United States itself. They foisted on the community of nations the monetary system that gave the dollar a privileged position vis-vis all the other monies.

They flooded the world, and the reserves of the Central Banks of almost all countries, with U.S. bills that far exceeded their gold backing. They blocked and separated the socialist community from international commerce. They began the cold war. They unleashed the armaments race. They and their allies in military pacts invested hundreds of billions annually in weapons, for a quarter of a century.

They promoted the war in Vietnam that cost upwards of $150 billion. The U.S. war budget exceeds the figure of $80 billion annually. And the CIA alone annually spends billions.

The fact is that the roots of the inflation are the monetary crisis, which emerged long before petroleum prices rose, lie in that fateful imperalist policy. And, finally, they established the society of consumption and the unlimited squandering of countries' natural resources. In any event, the increase in petroleum prices heightened the crisis situation that had been set off by the imperialist society itself.

In the second place, the Organization of Petroleum Exporting Countries emerges as a just reaction of the producing countries that belong to the underdeveloped world to defend themselves from unfair prices, unequal interchange, and the exhorbitant profits of the big transnational companies that essentially are North American.

Those who invented the monopolist prices of petroleum far above production costs were not the producing countries but the huge petroleum companies which, by doing so, reaped fabulous profits for the benefit of the imperialists' monopolies.

For many years petroleum suffered the same fate as the raw materials produced by the underdeveloped world.

THE UNDERDEVELOPED WORLD

But oil is a special kind of raw material, because iron, aluminum, tin, copper, nickel, uranium, lead, manganese and many other products are used almost exclusively by industrialized countries. Oil, however, is needed to a greater or lesser degree by all the peoples of the world. Among all raw materials it is the most essential and the most indispensable. Therein lies the strength and also the weakness of the countries which produce it in this confrontation with imperialism. As soon as the oil prices rose, after the latest crisis in the Middle East, the developed capitalist countries quickly increased the prices of equipment, technology and industrial products, to a greater degree than the cost of energy increased the cost of production.

They responded to the increases in oil by immediately increasing the prices of their exports. They have this resource for confronting their difficulties, but there are many countries in the world which are not industrialized and which do not have oil, and the prices of their agricultural products and raw materials do not compensate for the great increase in industrial products and energy. It is for the great increases in industrial products and energy. It is for this reason that the imperialist strategy takes into account that, for the ears of many poor countries, the demand that oil prices be reduced will have a pleasant sound. This could result in a great division of the third world countries and therefore in the defeat of the oil-exporting countries—a defeat that in the long run would be a defeat for all producers of raw materials and would mean the worsening of the unequal exchange which the imperialists have imposed on our peoples.

Oil has a privileged position among all raw materials. That is why it is in the vanguard in this struggle. However, this imposes a great responsibility on the OPEC countries. If we want all the underdeveloped nations to make the oil battle their own, it is necessary for the oil-producing countries to adopt the struggle of the underdeveloped world. [Applause.]

It is not by investing oil revenue in industralized capitalist countries, or in the international financial organizations controlled by the imperialists that the support of the underdeveloped world can be obtained. Those resources should be primarily invested in the third world—in the struggle against underdevelopment—so that the oil battle will be a real banner and a hope for all the marginally subsisting peoples of this world. If not, a large part of the underdeveloped world would have nothing to gain in this struggle, except to pay more for manufacured products and energy and be resigned to greater poverty in an already critical situation.

ALREADY CRITICAL SITUATION

Neither the oil producers nor the other underdeveloped peoples can allow themselves the luxury of missing this historical opportunity. Now is the time for all the third world countries to join forces and take up the imperialist challenge. If the oil-producing countries remain united and firm, if they do not let the U.S. threats intimidate them (applause), if they seek the alliance of the rest of the underdeveloped world, then the industrialized capitalist countries will have to accept as inevitable the disappearance of the shameful and unjust conditions of exchange which they have imposed on our peoples.

The nonalined countries could join together and give a firm, united and emphatic answer to the threats and pressures of the United States. (Applause.) In the face of the imperialist divisionist strategy, a more determined unity is necessary. In this way (rhythmic applause) in this way, the necessary international cooperation would not be imposed in the terms which the imperialists demand, but would rather be based on the aspirations and the more legitimate interests of all the peoples of the world.

The Venezuelan government has responded vigorously and with dignity to the speech of the President of the United States. (Applause.) However, only a few Latin American countries—several of which are oil producers, or potential exporters—have given Venezuela their support. Many governments have kept silent. When Venezuela nationalizes iron and oil in the near future as its government announced, it can be assumed that the imperialist policy toward Venezuela will be hardened. This is the historic moment in which Venezuela needs the support of the peoples of Latin America, and Latin America (lengthy applause) and Latin America needs Venezuela. We must view its struggle as a struggle of all our peoples. At the same time Venezuela—with the extraordinary financial resources which it can generate as the fruit of a firm and victorious oil policy—could accomplish as much as Simon Bolivar's soldiers did in the last century for the unity, integration, development and independence of the peoples of Latin America. (Applause.)

Cuba, which with the generous aid of the Soviet Union (applause) has not suffered the energy crisis, and whose development marches onward despite the imperialist blockade and the cowardly behavior of many regimes of this continent, does not hesitate to proclaim its support for the fraternal country of Venezuela (applause) and that country's government in its just aspirations vis-a-vis the United States' claims. Let the Venezuelans gain from the experience of the Cuban revolution's example which, under the most incredible conditions of blockade and hemispheric isolation, stanchly and unflinchingly withstood the imperialist attacks. (Prolongued rhythmic applause and shouts.) And after 15 years it emerges victorious and unvanquished as an irreversible fact on this continent. Venezuela will not be alone in this hemisphere as Cuba was (shouts), and perhaps fate has reserved again for the fatherland of the illustrious liberator a foremost and decisive role in the final independence of the Latin American nations. Fatherland or death! We shall overcome! (Applause.)

THE PLIGHT OF THE CATTLE INDUSTRY

Mr. CURTIS. Mr. President, for many months I have risen on the floor and called attention to the plight of the cattle industry. Other Members of the Senate who are knowledgeable in the field of agriculture have done likewise. The problem has not been solved. It seems to get worse.

Only this morning I received a telephone call from a cattlefeeder in Nebraska. This man is an intelligent and energetic operator. He reports that a year ago last March he had a net worth of $250,000 and that all of that is gone and that at the present time if he sold all the cattle that he has on hand, he would still owe the bank $200,000. He may have to sell his land and all of his machinery to pay this off.

Mr. President, last year all cattle feeders were in dire circumstance. Today the disastrous situation is hitting with full impact upon the ranchers that produce the cattle.

Mr. President, this Congress, the Department of Agriculture, and the President must do everything that can be done to rectify the situation. We should stop importing meat. We should increase the purchase of beef. We should promote the sale of beef and a wider use of that fine product. Attention should be given to the price spread between what the consumer pays and what the feeders receive and pursue whatever action is appropriate.

Mr. President, a big factor in the cause of the cattlemen's plight was the wrongful price ceiling placed upon beef and the Government has an obligation to right the wrong.

SOCIAL SECURITY IS NOT BANKRUPT

Mr. WILLIAMS. Mr. President, in recent months critics of social security have circulated several myths about the value and worth of this essential program.

One of the most serious charges is that social security is threatened with bankruptcy.

Nothing could be further from the truth.

Quite to the contrary, social security has a reserve of approximately $50 billion.

A recent report by the Board of Trustees does point to a need for additional financing over the long range. This

is primarily because the birth rate has declined in recent years. If this trend continues, there will be a larger ratio of elderly persons to workers in the 21st century.

But, it should also be pointed out that the revised population projections will have no major impact for the immediate future.

Additionally, the Trustees' report reveals that there will be sufficient funding to meet all benefit obligations for many years. Moreover, there is ample time to review the emerging long-term imbalance and take whatever remedial action is necessary.

In fact, the Secretary of Health, Education, and Welfare has appointed an Advisory Council—composed of representatives from labor, management, and the public sector—to examine the long-range financial status of the social security system. One of their chief missions will be to develop recommendations to bring the social security trust funds into actuarial balance on a long-term basis.

Unfortunately, the recent "scare" stories about social security have only served to create needless anxiety and concern on the part of beneficiaries and workers.

However, I think that it is important to emphasize that no social security beneficiary is in any danger of losing his monthly check.

Social security is still sound and working effectively.

It continues to be the economic underpinning for most older Americans.

More than 90 percent of all persons in the 65-plus age category are eligible for retirement benefits under social security.

Approximately four out of five persons aged 21 to 64 have disability protection.

And 19 out of 20 children under 18 and their mothers have survivor protection if the father in the family should die.

In a very real sense, social security is family security. And, it affects almost every American in one form or another.

Consequently, it is absolutely essential that public understanding of this vital program be based upon concrete facts and not myths.

An editorial in the September 26 edition of The Machinist admirably responds to some of the false charges directed at the social security system.

Mr. President, I commend this article to my colleagues and ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY

Recently, Social Security has been the target of a barrage of attacks. Some charge that the system is bankrupt or nearly bankrupt. Here is a reply condensed from the current issue of the Senior Citizens News, official publication of the National Council of Senior Citizens.

The basis for this incredibly false charge—that Social Security is bankrupt or about to be—lies in the fact that there is "only" some $52 billion in reserves in the Social Security trust funds and this amount is held in Treasury Bonds.

The argument is advanced that the $52 billion is not really even in the trust fund but has been taken out and replaced by some sort of IOU's. These so-called IOU's are the U.S. Treasury Bonds which are purchased to increase the trust fund's financial strength.

To call these Bonds IOU's—with the implied inference that they are unsecured—is a malicious twisting of fact and a libel against the very good name of this nation.

Any time anyone lends money, he receives in return a promise from the recipient to repay the amount received plus a certain amount of interest. To argue that the Federal Treasury Bonds are "worthless IOU's" is to argue that the U.S. Government is worthless.

The next time some writer or speaker attempts to make this point of the "worthlessness" of Uncle Sam's word to pay—simply offer to purchase that individual's holdings in U.S. Savings Bonds at 50¢ on the dollar. It will still be an absurdly easy proposition to obtain a bank loan for the purchase of Saving Bonds at half their value. For every banker knows that the U.S. Savings Bond, like U.S. Treasury Bonds, are the most secure investment in the nation. They are guaranteed by the U.S. Treasury at the express order of Congress.

ATTACK, IRRESPONSIBLE, UNPATRIOTIC

The critics of Social Security are telling the people of this country and the people of the world, in effect, "don't trust the word of the U.S. Government, for it is worthless." This irresponsibility transcends mere difference of opinion and brings into question the very patriotism of those attacking Social Security on this basis.

Also tied to this notion that Social Security is bankrupt or about to become so is the claim that there is not sufficient money in the trust funds today to pay off all its possible obligations in the future.

Those who seek to cloud confidence in Social Security charge that to be really solvent the trust funds need somewhere between $400 billion and $2.1 trillion in reserves. This is justified, according to opponents, by the theory that if Social Security were a private insurance company this amount would be needed to insure that all benefits for an indefinite future could be paid to present enrollees, even if all contributions to the system were to stop immediately.

This is a patently fallacious assumption, since Social Security is a valid ongoing system with over 80 million contributors not now drawing benefits. The opponents' requirements that the Social Security trust funds be obligated to have the monies on hand now to pay off any future possible debts is unfair and defies logic.

If a young couple having an income of $12,000 a year and $5,000 in the bank and with two small children, go to the local banker for a loan to purchase a house, do you believe that the banker is going to turn them down with the response, "Sorry, folks, but our private projections indicate that—what with your two small children, the cost of their education, health care and all, you will probably accumulate obligations over the next 30 years totaling more than a quarter-million dollars and you simply do not have the money on hand right now to pay off those possible future obligations."

Of course, no banker would refuse a loan on those grounds. He would look not only at the debit side of their lifetime ledger but also at the credit side—the potential increased earning power and the proved record of amassing savings. This is precisely what the critics of Social Security fail to do.

FUND, AS SOUND AS THE U.S.A.

But, contrary to these unfounded and unfair charges, there is now—with a reserve of some $52 billion—sufficient money to pay all beneficiaries their full monthly benefits for at least nine months, even if all contributions to the system were to cease.

Even at the worst of the 1929 crash, employment dipped by only 25%. If this calamitous situation were to recur, with a resultant drop of about 25% in contributions to the Social Security system, the trust fund reserves would be sufficient to continue to pay at full benefit level for four to five years and still not exhaust the reserves!

If the same standards which some seek to apply to Social Security were applied to the Civil Service Retirement Fund, most state and local government retirement funds and most private pension plans, as well as the majority of private insurance firms—all would be bankrupt, which they surely are not. Neither is Social Security.

DACE EPERMANIS

Mr. HUGH SCOTT. Mr. President, in the Wall Street Journal of October 2, Columnist Vermont Royster wrote of the happy events in the life of Dace Epermanis since her arrival in the United States in May 1950. She was 12 years old at that time when she came to this country from Latvia as the 150,000th refugee from war-torn Europe.

Mr. Royster's postscript of the American dream she found is most moving, and I would like to share it with my colleagues.

And it calls to mind, Mr. President, that her neighbors from Lithuania who have emigrated here have a wistful way of recalling their dream for a new and better life in this land. They made the journey to our shores as displaced persons and, in fact, they called themselves "DPs." But the initials stood for "Dievo pauksteliai." The words were used sometimes wryly but always with hope. They mean: "God's birds."

Mr. President, I ask unanimous consent that the postscript be printed in the RECORD.

There being no objection, the postscript was ordered to be printed in the RECORD, as follows:

POSTSCRIPT: In May, 1950, I wrote on this page about Dace Epermanis, the 12-year-old Latvian girl who arrived here to a ceremonial welcome because fortune made her the 150,000th refugee from war-torn Europe. Last week I recalled her story and hoped that she found what she dreamed of, a place in her new land.

Now I know she has. She grew up in Buffalo, where her father worked first in a factory and later as an accountant. In time she graduated from the University of Buffalo law school and in 1962 was appointed to the N.Y. State Attorney General's office. Today, in her adopted state, she is Assistant Attorney General.

Sometimes the American dream does come true.

THE GRAVE DANGER PRESENTED BY THE INTERNATIONAL PRICE OF OIL

Mr. JACKSON. Mr. President, at the recent Summit Conference on Inflation, Senator NELSON, as one of the representatives of the Senate Interior Committee, presented a statement emphasizing the grave danger presented by the international price of oil to our economy and the economies of most other industrial countries. By focusing on price, Senator NELSON gives a proper perspective for evaluating correct energy and tax policy, both at home and abroad.

As Senator NELSON states:

It is clear that today there is no market price of oil; that is, a price determined by the forces of supply and demand. In fact, there are two controlled prices of oil: one, set by the U.S. Government on domestic production, attempts to limit windfall profits and price gouging, and the other, set by the OPEC countries, attempts to achieve, among other things, maximum windfall profit and price gouging. Producers of domestic oil, to the extent their production is decontrolled, enjoy these windfall profits. There is no justification for allowing one American industry to profit from a policy that is crippling the rest of the country and the world. Increases in domestic prices have already resulted in inflation to the American public and in windfall profits to the oil industry.

For the benefit of my colleagues, I ask unanimous consent to insert in the CONGRESSIONAL RECORD, at this time, Senator NELSON'S valuable statement.

Mr. President, I also ask unanimous consent that a letter of September 14, 1974, that the junior Senator from Colorado (Mr. HASKELL) and I sent the President be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GAYLORD NELSON, WHITE HOUSE CONFERENCE ON INFLATION, SEPTEMBER 27–28, 1974

THE IMPACT OF OIL PRICES ON THE WORLD

The international price of oil is the greatest single danger to our economy and the economies of most other industrial countries. Paradoxicaly these oil prices, while adding to world inflation also, by constricting demand, create the specter of worldwide depression. The more than 300% increase in the price of oil is the result of an international cartel of a handful of underdeveloped and unpopulous states, mainly in the Middle East, known as the Organization of Petroleum Exporting Countries (OPEC).

Obtaining the highest possible price for oil for their maximum political and economic gain, these countries are engaging in global economic warfare, financially crippling other countries and toppling governments. This action could easily result in:

(a) world-wide inflation and depression;

(b) national bankruptcies and widespread malnutrition and even massive starvation and death in the underdeveloped countries, and

(c) a liquidity crisis for the world monetary system similar to that which contributed to the breakdown of the world's financial and trading systems in the 1930's.

INTERNATIONAL CONSEQUENCES

World oil prices are identical in their economic impact to a tax imposed by the oil producing countries on the rest of the world. We are witnessing the greatest transfer of wealth in the history of the world. According to latest Treasury figures, the OPEC countries, who received $15 billion for their oil trade in 1972 and $25 billion in 1973, will receive $80 billion this year. As recently as 1970, Saudi Arabia held less than $700 million in reserve assets. Their reserves jumped to $3.1 billion in mid-1973, and to $7.1 billion on June 30, 1974—a one-year gain of 129% that places this country of 8 million people ahead of Britain, Canada, the Netherlands, and Italy. Iran had $208 million in reserve assets at the close of 1970. Iranian reserves hit $5.4 billion on June 30, up 350% in a single year, and up 2,600% in 3½ years. The sharpest one-year gain of all was by Nigeria, up 360% in the 12 months ending June 30. This is only the beginning. The World Bank estimates that the 13 OPEC countries could accumulate reserves of $650 billion by 1980 and $1.2 trillion by 1985. This is madness and can only lead to world bankruptcy.

This transfer of wealth creates two immediate technical problems. First, how are the importing countries to pay for their oil needs without disrupting normal international trading relationships, and secondly, how to get this money back, or "recycled" into the international monetary system so it works. Recycling however, by its very success creates a dangerously volatile, international economic system, lending long and borrowing short. For example, about $20 billion of loans to oil importing countries have been made by commercial banks of Europe and the United States. The resources to make these loans have come from the oil-producing nations, which have placed the bulk of their receipts for oil on short-term deposit with banks—principally on call or at most, 30 days.

Even assuming the oil importing countries can somehow manage the balance of payments and recycling problems created by the present world oil price, there are much more fundamental questions:

(a) Do we want most of the developed countries' standard of living substantially reduced and developing countries driven to ruin to pay for artificially created world oil prices?

(b) Do we want, because of a freak of nature, so much of the world's wealth and economic power concentrated in the hands of a few industrially undeveloped, and politically unstable countries?

It seems to me that the answer to those questions is a resounding "No".

DOMESTIC CONSEQUENCES

In the United States, it is estimated that one-third of the rise in the Consumer Price Index for the last 12 months is attributable to the increased cost of energy. In dollar amounts, this means that the American public had to pay $55 billion more for the same amount of energy. Nothing has a more pervasive impact on our economy. It is reflected in everything we do and consume. For example, one-fifth of the inflation in agricultural products was caused by increases in the cost of energy.

It is clear that today there is no market price of oil; that is, a price determined by the forces of supply and demand. In fact, there are two controlled prices of oil, one, set by the U.S. Government on domestic production, attempts to limit windfall profits and price gouging, and the other, set by the OPEC ccuntries, attempts to achieve, among other things, maximum windfall profit and price gouging. Producers of domestic oil, to the extent their production is decontrolled, enjoy these windfall profits. There is no justification for allowing one American industry to profit from a policy that is crippling the rest of the country and the world. Increases in domestic prices have already resulted in inflation to the American public and in windfall profits to the oil industry.

For example, the price of controlled oil was raised last year from $4.25 to $5.25 a barrel resulting in an inflationary $2 billion additional cost to the American public. More importantly, the price of 40 percent of our domestic oil has been decontrolled, 3.8 million barrels a day, adding $14.8 billion more to the cost to the public.

For these increased costs, the American public has received no benefit. As shocking as the price rises is that while domestic prices have gone up, domestic production has gone down. In 1971, domestic production, on an annual basis, was 9.8 million barrels a day. In 1972, 9.1 million barrels; and 1973, 8.9 million barrels. For 1974, it is estimated that domestic production will remain at 1973 levels.

While the country has not received any benefit from previous price rises, the Administration proposes to decontrol all domestic production, creating another $10.3 billion of inflationary cost to the country and windfall profits for the oil companies. Until the power of the international cartel is broken, and the price of energy reflects the forces of the market, further decontrol of domestic oil production cannot be justified.

While there is hope that oil prices will decline, somewhat, because of an existing world oil surplus of about 2 million barrels a day we should take every economic and political step necessary to break the cartel. Internationally, we need a program of co-operation and co-ordination, which would provide for:

(a) an emergency sharing of oil from all sources if there is a new threat to supplies;

(b) direct dealing between oil importing and oil exporting countries, as Federal energy chief John Sawhill observed, oil pricing and production negotiations are too important to be left to private corporations.

(c) establishing and coordinating research and development programs. We should eliminate unnecessary and time-consuming duplication of research and concentrate our efforts where the best results can be obtained.

(d) Establishing a concurrent and consistent program of energy conservation.

(e) Refraining from efforts to resolve balance-of-trade problems by restricting imports from other importing countries which can only seriously weaken the international economy.

(f) Abstaining from trying to obtain unilateral advantages by special deals with a particular oil-producing country. Such deals only maintain the power of the cartel and make others even more dependent on it.

(g) Resisting attempts to gain a special relationship by the competitive rearming of the various Middle East countries. Vietnam shows the danger of this kind of policy.

The actions of the oil-producing countries represent economic warfare which could cripple countries and topple governments. We have no choice but to vigorously oppose those actions.

CONSERVATION: ANTI-INFLATION AND ANTI-CARTEL POLICY

Domestically, for economic as well as national security reasons, it is essential that we develop all domestic sources of energy to break the power of the cartel.

We must have a vigorous program of research and development to use all possible sources of energy. Research should move briskly ahead to develop such energy sources as sun, heat and light, hot water and steam from the earth, coal from deep deposits that cannot be mined economically now, hydrogen that is available in enormous quantities from seawater, heat generated where layers of warm and cold water meet at the sea, and organic waste. New energy producing devices and policies that should get attention in a research program including coal conversion into gas and oil, gasification and liquefaction, hydrogen fusion (the same process as is in the sun), photovoltaic cells (direct conversion of solar energy), magneto-hydrodynamic power (electricity from coal gas), fuel cells, and transmission of energy.

Development of energy takes time, but in the interval, we can still challenge and hopefully lower the world oil price by practicing the conservation actions we adopted when the Arab embargo began.

Conservation means we must fundamentally change how this country goes about its business. As former energy czar Simon was fond of saying, we are a country of "energy wastrels." We don't just use energy, we wallow in it. Conservation doesn't mean going without, it means using our energy more efficiently; eliminating the waste.

Our enormously wasteful habits of the past 30 years must come to an immediate end. The Office of Emergency Preparedness estimated in 1972 that we could save at least 30% of the energy we consume without lowering the standard of living or degrading the environment.

The National Bureau of Standards reports that 40% of the energy we use for air conditioning and space heating is wasted. The waste amounts to the equivalent of 61 billion gallons of oil a year, 13.5% of the nation's energy consumption. We use more energy for air conditioning than 800 million Chinese use for everything.

Industrial use of energy has been increasing exponentially, doubling every 14 years. American industry could save approximately 30% of the energy it now consumes by applying existing energy conservation technology that is economically justifiable at today's fuel prices. It has been estimated that a saving of only 10% in energy consumption by industry would be the equivalent to about 2.5 million barrels of oil per day—more than the U.S. currently imports from the Middle East. A savings of 10% on our present energy consumption is the equivalent of developing 200,000 new oil wells, or 2,930 new coal mines or 211 additional nuclear plants. Industrial waste accounts for 12 percent of the nation's energy bill.

We need a total re-evaluation of our transportation program. We need smaller, lighter cars with more efficient engines. We need mass transit for our urban areas and improved intercity and intracity buses for our rural citizens.

If half of the estimated 113 million cars expected to be on the road by 1980 got 22 miles per gallon instead of the current 14, we could save 17 billion gallons of gasoline. I can't believe that we will hand over our standard of living just because of sloth.

OIL PRICE AND TAX POLICY

The present prices for oil, however, compel Congress to repeal some of the extraordinary tax subsidies provided the petroleum industry. In this regard, it is particularly essential that percentage depletion allowance be repealed because, as presently written, as the price of oil increases, the larger the amount of the tax gift to the petroleum industry. As everyone knows, there have been numerous economic studies questioning the effectiveness and need of the percentage depletion allowance. For example, Secretary of the Treasury William Simon in a former position in the Department of the Treasury wrote to Senator Jackson, Chairman of the Senate Interior Committee: "in the short run, changes in percentage depletion rates should have little effect on the rate of expenditure of discovery efforts."

Further on, he states, "in the long run, changes in percentage depletion should have no effect, per se, on the rate of production." Putting Mr. Simon's words into simple English, he is saying that changes in the depletion allowance will have little effect on exploration and no effect on production. While there are many economic studies supporting Mr. Simon's conclusions, there are also some common sense observations about percentage depletion suggesting Mr. Simon is right.

First and foremost, as percentage depletion is written, it is an incentive for oil men to pump from existing wells rather than an incentive to explore for new sources of petroleum.

Secondly, percentage depletion is claimed by owners of oil royalties, even though they are completely passive renters who do no drilling and take no risks.

Thirdly, depletion allowances can be claimed for income for producing wells abroad which do not necessarily insure a source of oil for the United States, secure or otherwise.

Fourthly, percentage depletion, because of the net income limitation, is of doubtful significance to marginal wells, because it is far more valuable to productive rather than marginal wells.

Fifthly, percentage depletion encourages misallocation in the energy area, providing tax incentive for undertaking oil and gas activities as opposed to undertaking research and development of alternate sources of energy.

I have stated some of the reasons that suggest why percentage depletion is a wasteful and expensive tax subsidy and should be repealed. The current world oil price allows us, however, to disregard its past validity and consider only its present justification. Prior to 1973, U.S. oil prices were about $1 to $1.50 above the world price, and many felt that we had to protect the domestic oil industry. Whether or not this protection policy was the wisest thing we could have done, it was what we did. We decided that the domestic oil industry was sort of like Penn Central; it couldn't compete without being protected. The important fact now is that the need for protection has vanished because the world price is above the U.S. price. This change of price does not suggest that the percentage depletion doesn't make sense for foreign oil; it suggests that it doesn't make sense on any oil.

It should be understood that recent price increases not only remove the reason to shelter the domestic oil industry from the outside world, but more than adequately compensate them for the loss of the percentage depletion. One expert has calculated that assuming oil companies were expecting $4 a barrel, a price of $4.70 a barrel would make up the difference for repeal of the depletion allowance. In fact, price expectations for most existing oil contracts is probably in the neighborhood of $3.00 a barrel. When one considers that the average price of crude oil, less than two years ago was $3.50, and today the estimated average price for domestic crude as of January 1, is $5.25 in the case of old oil and $10.00 in the case of new oil, it is clear that price increases have already richly rewarded the oil industry for any loss suffered by repeal of the percentage depletion.

POLLUTION ABATEMENT, ENVIRONMENTAL QUALITY, AND INFLATION

Enactment of the Federal Water Pollution Control Act Amendments and the Clean Air Act committed this nation to clean up its fouled air, restore its polluted waterways, and prevent the earth's physical environment from further degradation. Much progress has been made toward achieving these goals. It has been expensive but the consequences of not establishing a vigorous national pollution abatement effort would result in higher capital investments, a continued loss of aesthetic values, and continued pollution-related human sickness and death.

Pollution abatement efforts must continue as scheduled. Energy production projects that utilize federal funds must not be exempted from the requirements of section 102 (2)(C) of the National Environmental Policy Act (NEPA). Before the federal environmental budget is cut further, one must take a hard look at the role federal and private pollution abatement spending has on inflation.

Over the last three years the federal government's environmental protection program has been severely reduced. Half of the funds authorized and appropriated by the Congress for the construction of wastewater treatment facilities have been impounded. During FY 72–74, over 15% of the funds Congress authorized for the National Park Service, Fish and Wildlife Service, Bureau of Outdoor Recreation, Land and Water Conservation Fund, and the Bureau of Land Management have been impounded. Federal spending in FY 75 for pollution abatement will amount to one-fifth of one percent of total budgetary authority. Federal expenditures for environmental purposes are less than for any other major program area.

If conservation, preservation, and recreational resource management expenditures are added to direct pollution control costs the total dollar figure $3.3 billion, would equal 1.1% of the sought-after national $300 billion budget.

The President's Council on Environmental Quality (CEQ) has been looking into the role public and private environmental pollution control spending has had on inflation. CEQ's most recent study of the impact of environmental programs on the economy indicates that public and private pollution abatement spending accounts, at most, for only one-half of one percent of the 17% increase in the Wholesale Price Index in the year ending March, 1974.

CEQ reports that public and private expenditures to meet the requirements of federal air and water pollution legislation amounts to seven tenths of one percent of the nation's total Gross National Product (GNP) in 1974, and 1.2 percent in 1976, the year of maximum impact. These expenditures amounted to two to three percent of all private sector investments. It represents five to six percent of the total expenditures made on plant and equipment.

CEQ estimates that project investment and operating costs for pollution abatement programs that will satisfy federal requirements over the next ten years will have an insignificant impact on GNP growth.

There are other costs that must be weighed before budgets are cut and legislation redrafted. The Environmental Protection Agency (EPA) estimates the direct cost to human sickness and death attributable to air pollution at $9.3 billion a year. Air pollution does another $8 billion damage annually to residential property. In addition, air pollution destroys $7.6 billion worth of materials and vegetation, a total of $25 billion a year in additional costs, excluding aesthetic values.

Excluding aesthetic values, water pollution costs Americans at least $11 billion a year. Seven hundred million of this figure is directly attributable to human sickness and death.

CEQ recently estimated that $210.4 billion (in 1973 dollars) would be needed from 1973–1982 to meet the federal requirements enacted several years ago. Without these programs, the nation would suffer over $360 billion in pollution attributable damages.

There is much work to be done. EPA reported in 1972 that the estimated cost effects of the Clean Air Act of FY 77 would be: damages without controls—$24.9 billion; damages with controls $10.8 billion; cost controls $12.3 billion. It would be cheaper to install and operate the pollution control equipment than to suffer the monetary damages that are bound to result if the equipment is not installed or if the installation is delayed. Installation later will be more expensive.

The costs of pollution abatement must not be calculated solely on the basis of capital needed to purchase equipment. The costs to health, and the desire for clean water, clean air and a healthful environment that have been repeatedly emphasized by the public must be considered. The water pollution program authorized by the Congress has been cut in half. The lake restoration program has never received Administrative fiscal support.

The Clean Air Act and NEPA must not be the scapegoats for an inflation caused by the oil producing cartel raising crude oil prices four times in the last twelve months. Another price increase in December, at the height of fuel oil demand, is being threatened. Food (28.2%) and fuel (22.3%), neither of which are significantly affected by environmental controls, are responsible for over half of the increase in the wholesale price index from April, 1973 to April, 1974. Environment has been made a strawman for inflation; there is no evidence to support this mirage and justify additional fiscal reductions.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., September 14, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

MY DEAR MR. PRESIDENT: As members of the Senate who serve on committees which have important responsibilities for the development and oversight of Federal energy, natural resource, recreation and environmental policy, we welcome the opportunity to participate in the September 16th Natural Resources, Recreation and Environmental Conference on Inflation in Dallas, Texas. We are hopeful that this conference will result in effective and meaningful policy recommendations for the Washington, D.C. September 27–28 Conference on Inflation.

We are in complete agreement that the serious economic crisis the Nation is currently experiencing is our number one domestic problem. Effective action to control inflation, to prevent widespread unemployment, to restore confidence in the economy, and to maintain the viability of the world economy will require a bipartisan effort. We stand ready to contribute to that effort and present the following remarks in the hope that they will lead to a better analysis of the economic problems we face and the development of a balanced program which will prevent total economic collapse and move the Nation into an era of economic well-being.

NEED FOR FOCUS ON CAUSES AND OPPORTUNITY AREAS

It is our view that both the White House agenda of August 30 and the more detailed Department of the Interior agenda of September 10 for the Dallas conference fail to provide any focus on the real aspects of resource, energy and environmental policy which contribute to inflation. By the same token, neither agenda provides focus on the real opportunity areas in which meaningful action could be taken to control inflation while, at the same time, maintaining employment and avoiding additional recessionary pressures.

For example, a large portion of the proposed agenda focuses on how funding requirements for various Interior programs could be reduced. Yet, the total appropriations for Department of Interior programs for fiscal year 1974 were only slightly more than $2.8 billion. A more productive area of inquiry, in our view, would be a detailed review of the economic justification for allowing the price level of 40 percent of the Nation's domestic oil production to float to arbitrary price levels of $10 to $12 per barrel established by an international cartel of oil producing nations. In this one area alone there is a tremendous opportunity to control inflation by reducing consumer costs from $5 to $10 billion per year without materially reducing incentives for increased domestic oil production. Further, action in this area could be taken now, without new legislative authority, under the existing pricing authority vested in you by the Emergency Petroleum Allocation Act.

There are a number of other areas in which we have serious reservations concerning the analytical and policy implications contained in the agenda proposed for the Conference. In addition to U.S. oil price control policy these include the domestic impact of OPEC price policy, Administration proposals to deregulate natural gas, the economic consequences of Project Independence, the oversimplified characterization of environmental laws as a major cause of inflation, and others. These are discussed below in greater detail.

OIL PRICE POLICY

The dramatic rise in the price of oil over the last year was the biggest single blow our economy and the world economy have suffered in their current crisis. High prices for crude oil have pulled up the prices of other fuels and together they impart a vicious cost-push to a world economy already ravaged by inflation. On the other hand, high energy prices act as a tax that deprives consumers of the income they need to buy the products of industry and so, at the same time, move us closer to a worldwide depression.

The oil price increase was initiated by a handful of nations, mainly in the Middle East. Face to face with a cartel of these countries, the United States and the other wealthy nations are in disarray. Our economic bargaining strength, our overwhelming superiority in petroleum technology, logistics and marketing, and our diplomatic and strategic power have been impotent to halt, much less reverse, the price rises that are pushing the world's economy to the brink of ruin. None of the major importing countries, including the United States, seems to have any policy to counter the high prices which threaten their collective economic destruction—except perhaps supplication to the rulers of the exporting countries.

It is astounding that the agenda for the Dallas "economic summit" has not focused on the oil price issue. Ignored are both the necessity of a policy to reduce the price and the insecurity of imported oil, and the fact that domestic oil prices have also been set at the levels dictated by the Organization of Petroleum Exporting Countries, despite the fact that these prices exceed by far the levels that are necessary or desirable to encourage energy conservation and development of new energy supplies.

The prices of 40 percent of our domestic oil have been decontrolled, and have almost tripled at a consumer cost of $8 billion per year. Prices of the remaining 60 percent that is still under controls were permitted to increase by more than one third in December of 1973, costing the economy another $3 billion. Recent press reports indicate the Administration now proposes to decontrol this portion of supply as well, creating another $10 billion in windfall profits for the oil companies at the expense of the rest of the economy.

More attention should be given to the impacts of exorbitant oil prices, which are simultaneously inflationary and depressive to the economy, as well as to the serious and complicated economic issues involved in controlling prices. The distortions and inefficiencies created by the two-tier system, and the exploration of alternatives to this system other than total price decontrol merit serious consideration.

The impact upon the economy of the Administration's proposal to remove controls from the price of domestic natural gas and to allow domestic gas prices to rise to the level of prices decreed by the oil exporting nations warrants the attention of the inflation conference. The present system of controls on natural gas producers is clearly outmoded and counterproductive, but it seems to us that the Dallas meeting ought to consider remedies that do not add another massive boost to inflation and windfall profits.

THE ECONOMY, SELF-SUFFICIENCY AND RESEARCH AND DEVELOPMENT

A bold national strategy is necessary to stimulate the development of domestic energy resources. The Congress has enacted, and is now working on, many elements of such a strategy. The Administration has committed itself through Project Independence to such a program. A conference considering the relationship between energy and the economy needs to consider the relationship between the short- and mid-term problems of our economy and the long-term need for energy. We face an excruciating dilemma over the drive for energy self-sufficiency: many of the technologies and facilities advocated—nuclear energy, the gasification and liquefaction of coal, for example—require exceedingly large capital investments per unit of daily output, and in some cases their technologies are far from proved.

A massive construction effort today would be necessary if these projects were to contribute significantly to the national energy supply in the foreseeable future, and even so there would be great uncertainty about the size and timing of ultimate payout. Such a massive effort to create new, capital-intensive energy facilities is, however, massively inflationary, bidding up the prices of those commodities, services and capital goods that are in shortest supply—specialized steel and process construction capacity. Because the payoff in new energy production will come only in the distance future, such construction projects will not relieve current inflationary pressures by increasing current supply. Because they are so capital intensive and involve bottleneck industries, they will not even make a significant contribution to relieving unemployment.

There needs to be a clear recognition of the fact—clearly demonstrated in reports by M.I.T. and the National Academy of Engineering—that we cannot do everything, particularly in an era of raging inflation and widespread bottlenecks. A sense of realism and a hard examination of energy priorities is necessary.

ENERGY CONSERVATION

In view of the tremendous impact the dramatic rise in oil prices over the past year has had on substitute fuel costs, inflation and on the average consumer, it is essential that policies be implemented to both control oil prices and to reduce non-essential energy demands. There are great opportunities to reduce energy consumption in many sectors—transportation, space heating, and industrial uses. The Nation is capable of doing more with less energy and the Conference should consider recommending budget increases to develop programs and undertake new research and development efforts which will improve energy conservation and efficiency of use.

ENVIRONMENTAL QUALITY AND THE ECONOMY

Throughout the proposed agendas for the Conference there are repeated general references which imply a need to relax, modify or rescind existing pollution control and other environmental laws. Where there are real problems these should be addressed on the merits, in specific terms and with full recognition of the short- and long-term social costs that would be involved in changes in existing policy.

It is our belief that the social and economic benefits—whether measured in terms of public health or more general indicators of the quality of life—to be attained from pollution abatement programs and better resource planning efforts outweigh any public benefit involved in a general relaxation of environmental laws. Better environment planning in the form of legislative enactment of a National Land Use Policy, for example, could increase domestic energy supplies and improve the quality of life by facilitating the siting of refineries, power plants, transmission lines and other major components of the Nation's energy system. Again, this is an area that would require new programs and new expenditures, but these expenditures would pay impressive returns.

THE NATIONAL INTEREST FIRST

There are, of course, many important subject matter areas we have not addressed in this letter which deserve and require consideration at the Dallas conference. These include tax policy, material scarcity, and the problems facing our electrical utilities. We anticipate that these subjects will be addressed in Dallas and at the Conference on Inflation in Washington, D.C., later this month.

In dealing with the economic problems which threaten our country and the nations

of the world we are committed to the belief that the national interest must come first. Partisanship or commitment to ideological answers will not create a climate in which rational analysis can lead to a set of policies which will get this Nation moving again. This is not to say that there will not be wide divergencies in both analysis of the causes of our economic problems or the types of policies which can best solve these problems.

We assure you and Secretary Morton, Chairman of the Dallas Conference, of our best efforts and our support in addressing the critical issues posed by the state of the Nation's and the world's economy.

Sincerely yours,

HENRY M. JACKSON,
Chairman.
FLOYD K. HASKELL,
Member.

THE ECONOMY

Mr. TAFT. Mr. President, I am quite pleased that the Economic Summit and Pre-Summit meetings gave Americans the opportunity to obtain thoughts on the economy from some of the most distinguished experts in the private sector. One of the business community's leaders who has contributed many times to the Government's economic understanding is Philip O. Geier, Jr., president of Concinnati Milacron, Inc. Mr. Geier was the participant in the Business and Manufacturing Conference on Inflation in Detroit on September 19. I believe that Mr. Geier's statement should be reviewed most carefully. I would like to call attention in particular to his comments on the need for increasing productivity, an extremely important goal. Since Mr. Geier's industry, the machine tool builders, will be a crucial part of any such effort, Mr. Geier is extremely familiar with this issue.

I ask unanimous consent that Mr. Geier's statements be inserted in the RECORD at this point.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY PHILIP O. GEIER, JR., BUSINESS AND MANUFACTURING CONFERENCE ON INFLATION, SEPTEMBER 19, 1974

We all know that inflation results from many actions over a period of years. There is no single, quick cure; a combination of remedies, both short and long term, are needed. The process will require belt tightening by government, by labor and business, and by all citizens.

I would like to devote my comments to courses of action to be followed.

We support a 1975 fiscal year budget at a level of three hundred billion dollars, and endorse a balanced fiscal year 1976 budget.

We believe a closely-monitored monetary policy of restraint is a necessary element in bringing inflation under control. However, some easing of Federal Reserve policy might, at times, be desirable.

We are opposed to all forms of direct wage and price control. Experience has shown that controls, over a period of time, aggravate rather than alleviate inflation.

We support health, safety and pollution controls but feel that some of them have been applied over-zealously and too quickly. Some have resulted in excessive cost and price increases which have increased inflation.

We fully support the program for increased independence from outside energy and raw material sources.

In my judgment, U.S. industry must improve its *productivity* to remain competitive with other industrialized nations in supplying home as well as overseas markets. Investment in highly productive equipment is the only way for U.S. industry to combat rapidly increasing labor and material costs, and thus keep unit manufacturing costs as low as possible.

Since the Korean War, U.S. industry has not invested in new capital equipment at a rate comparable to other industrialized nations. Our investment rate, expressed as a percentage of GNP, has been the lowest of all in each of the last ten years.

Further, many of today's *shortages*, which contribute to inflation, are the result of insufficient capacity due to inadequate past investment in equipment and plant.

When considering how to improve productivity and alleviate shortages, it is important to recognize that present U.S. *capital recovery allowances* are only equal, at best, to the lowest capital recovery allowances permitted our overseas competitors. As you know, U.S. capital recovery allowances are the sum of the investment tax credit and depreciation rates permitted under the ADRs. I strongly recommend that the investment tax credit be increased and faster depreciation be allowed on a permanent basis so U.S. industry overall can be competitive in the years ahead, so our standard of living can be maintained, and so jobs will be available for our increasing workforce.

We favor a further increase in our historic favorable balance of trade. This can be furthered:

(1) by early passage of the trade bill, a prompt start on the GATT negotiations, and on negotiations to reduce non-tariff trade barriers.

(2) by making long term trade credit terms competitive with those of our overseas competitors through a permanent strengthening of the Export Import Bank.

(3) and by a further liberalization of East-West trade.

In closing, I appreciate the opportunity to express these views on a subject so critical to our nation's present and future well-being.

INFLATION AND THE MACHINE TOOL INDUSTRY

(By Philips O. Geier, Jr.)

I have been asked to comment on the effects of inflation on the machine tool industry, and to give my views on the outlook for machine tools and the capital goods industries.

ORDERS, SHIPMENTS AND BACKLOG

The machine tool industry is a relatively small one. It will ship slightly over two billion dollars of product in 1974—a boom shipment year. Appendix 1 shows new orders, shipments, and order backlog for 1966 through mid-1974. The indices are based on current dollars with 1967=100. The last peak in new orders occurred in 1966, the low point was 1970, and orders have accelerated from that time to present record levels. The shaded areas show the time the investment tax credit was in effect.

Shipments reflect the long lead time between order placement and shipment, characteristic of the industry. Shortages in manpower, raw materials, and purchased items have kept shipments from expanding more rapidly.

Order backlog reflects the inability of shipments, even though increasing, to keep up with the new orders in recent years.

COSTS

Appendix 2 portrays the rapid increase in the last five years of the major elements of machine tool industry costs: metals, purchased intermediate materials and hourly wages, including overtime, but no fringes. Beginning in 1973, and for the first time in my experience, metals and intermediate materials are having a greater relative impact on overall costs than hourly wages, even though the industry is very labor intensive.

By appropriately weighting these Department of Labor indices (wages 50%, intermediate materials 35%, and metals 15%), a composite cost index for machine tools has been calculated (Appendix 3).

In the last three years, the annual percent increase has gone from 6.8% in 1972 to an estimated and astonishing 22.6%! (Appendix 4).

PRICES

What about prices? The industry has had an historical pricing practice of pricing at the time of the receipt of the order rather than time of shipment. Appendix 5 compares the Department of Labor's cost and price indices. Note that the gap between the price and cost indices did not begin to narrow until the past three or four quarters. The fairly stable prices of 1971 and 1972 were during the period of price control. Prices began to increase in 1973, but still lag about one year behind mounting cost increases; hence the severe profit squeeze in the machine tool industry. From this graph one might conclude that prices are starting to catch up with costs. This is not necessarily true.

As shown in Appendix 6, average deliveries have steadily lengthened from a low of 24 weeks in the second quarter of 1971 to 72 weeks in the second quarter of this year. The graph in Appendix 7 shows the effect of long deliveries on prices and revenues. The price index line has been replotted to the right by the average delivery times shown in Appendix 6. Even though current prices are rising, they are not invoiced or collected until over a year later and, in the meantime, costs continue to rise.

For example, a machine tool with a two year delivery time and shipping at mid-year 1975, will be invoiced at a price that was established at midyear 1973.

This situation might explain why, in 1974, machine tool industry members, acting separately, at different times, and having pricing policies differing in detail, have insisted on escalation clauses, and, in some cases, on down and progress payments.

I think this shows how inflation has impacted the machine tool industry, and why the industry finds itself in a boom, but low profit period.

OUTLOOK

What about the Outlook for capital equipment and machine tools in particular? First, the short term outlook.

Plant and equipment spending for all industries should show a 12.5% increase for 1974 and a 9.7% increase for 1975 (Appendix 8).

The graph in Appendix 9 shows plant and equipment spending since 1966.

Spending for machine tools should be equally as good through 1975, because the industry, on the average, is sold out for that period.

What is the outlook beyond 1975?

There are many reasons, from the demand point of view, why the outlook is favorable.

First, U.S. industry must improve its productivity to remain competitive with other industrialized nations in supplying home as well as overseas markets.

Investment in highly productive equipment is the only way to combat rapidly increasing costs and keep unit manufacturing costs as low as possible.

Since the Korean War U.S. industry has not invested in new capital equipment at a rate comparable to other industrialized nations. Our investment rate, expressed as a % of GNP, has been the lowest of all in each of the last ten years.

Second, many of today's shortages are the result of insufficient capacity due to a lack of past investment.

Third, there is a need to replace obsolete equipment—equipment that is technologically obsolete as well as that which is worn out.

Fourth, new equipment will be needed to produce new products resulting from the accelerating pace of technology.

Fifth, EPA and OSHA regulations will require increasing investment in safer, cleaner and quieter equipment, and for the machinery to produce it.

Finally, there will be increased demand from the existing good markets in eastern Europe, as well as from the developing nations and China.

But there is a cloud hanging over the long range outlook: Will U.S. industry be able to generate sufficient cash from earnings and from capital recovery allowances to invest in productivity-improving equipment? Can it supplement these funds in the equity market? Will sufficient funds be available for U.S. industry to borrow either on a short or long term basis?

Funds available to U.S. industry for investment will be less because our capital recovery allowances are not competitive. Since present U.S. allowances, composed of the investment tax credit and the A.D.R., are only equal to the lowest capital allowances permitted our overseas competitors, it is essential both the tax credit and the A.D.R.s be increased.

My concern over the availability of capital is heightened by the realization that profits are grossly overstated in this inflationary economy of ours.

George Terborgh of MAPI has recently published a study emphasizing the extent to which we are undercharging the real cost of asset consumption—both fixed assets and inventories—and counting the shortfall as profits.

Mr. Terborgh's analysis employs Department of Commerce statistics in determining total understated costs.

The understated cost of fixed asset consumption is computed by comparing current-cost double-declining-balance depreciation with depreciation allowed for income tax purposes.

The understated cost for inventory consumption is calculated by allowing for inventory consumption presently charged for income tax purposes by LIFO and other current costing procedures, and converts only the balance under historical costing systems.

Appendix 10 shows that the understated costs were relatively low in the mid-1960s. Since then, as the purchasing power of the dollar shrank, the understatement of costs increased. Last year it amounted to $26.3 billion.

If previously incurred costs were measured in terms of the revenue dollars against which they are charged rather than against historical costs, after-tax-profits last year would have been less than half of those actually reported: $23.6 billion instead of $49.9 billion (Appendix 11).

And after provision for dividend payments, reported retained earnings would be further reduced.

In fact, adjusted retained earnings, shown in the right hand column of Appendix 12, have been woefully inadequate in recent years: only $1.3 billion last year, compared to $19.2 billion in 1965.

The difference between reported and adjusted retained earnings, of course, is the result of understated costs (Appendix 13). As Mr. Terborgh points out, it is apparent that American business has not been able to protect itself against inflation.

When measured realistically, retained earnings are woefully inadequate.

Radical changes in accounting practices for depreciation and for recognizing the cost of inventory replacement are needed to reflect the effects of both inflation and rapidly expanding technology. Tax reform is even more essential. The present policy of taxing a part of capital consumption as income really compounds the problem of understated costs.

To sum up, the long term outlook from the demand point of view is good, but I am very concerned about U.S. industry having the funds to invest in modern capital equipment which is badly needed to improve productivity and to ease shortages by increasing supply.

ERTS HELPS PROTECT FLORIDA EVERGLADES

Mr. MOSS. Mr. President, the Senate Committee on Aeronautical and Space Sciences for some years now has recommended strongly that the Government take a more aggressive posture with respect to earth resources satellites. Specifically the committee has recommended that the executive branch create the institutional structure necessary to assure continuous availability of earth resources satellite data.

On several days this month and last month, the committee held hearings on this matter. The witnesses, with the exception of those from the executive branch, all urged that steps be taken to insure continuation of data by remote sensing using earth resources satellites. The executive branch, led by the Office of Management and Budget, has opposed the idea of insuring the continuation of earth resources satellites largely on the basis that they are not satisfied that such satellites produce benefits commensurate with their cost. Nevertheless, daily we read in the Nation's newspapers and magazines of the enormous benefits these satellites have brought to mankind in helping discover previously unknown resources, in helping to keep track of our food and fiber resources, discovering and monitoring water resources, monitoring the environment and locating sources of pollution, and providing the information to update maps rapidly.

The Government itself has issued numerous press releases on the usefulness of the Earth Resources Technology Satellite, ERTS. An example of the great usefulness of ERTS was recently announced by NASA. This release describes the use of ERTS to preserve the Everglades National Park in Florida. This work is under the direction of Dr. Aaron L. Higer of the U.S. Geological Survey in Miami. ERTS data on the Everglades is collected both by imagery and from small data collection platforms located strategically throughout the Everglades. Dr. Higer says that data is now available from the most inaccessible regions of the Everglades usually from 25 to 40 minutes after the measurements are taken.

The information provided by ERTS is important not only to the vegetation and animals of the Everglades but to the 2½ million inhabitants of southeast Florida and to all those in this country who treasure the Everglades as a natural resource. With the information now being provided, it is possible to monitor the Everglades closely, particularly the soil moisture and, as necessary, to regulate human entrance into danger areas, to pump in additional water or to increase fire surveillance.

Mr. President, I ask unanimous consent that the NASA release be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOSS. Mr. President, in assessing the value of Earth resources satellites, how much value is assigned to the ERTS system for providing the information which enables the USGS to better manage such an enormous natural resource? We do not know; we cannot find out. But those who treasure man's natural and renewable resources and believe in the future argue that the assigned value should be large. The committee believes that Earth resources satellites are important to mankind's future and the committee does not understand the reluctance of our Government to move forward to aggressively insure continuation of the acquisition of resource and environmental data by remote sensing using satellites.

EXHIBIT 1

ERTS HELPS PROTECT FLORIDA EVERGLADES

Satellite technology is helping to preserve Florida's Everglades National Park through environmental assessments made possible by teamwork between the U.S. Geological Survey and NASA's Goddard Space Flight Center, Greenbelt, Md.

Under the direction of Aaron L. Higer, of the USGS in Miami, the ecological balance of the 3,600-square-kilometer (1,440-square-mile) area is constantly surveyed by 20 small data collection platforms (DCPs) situated strategically for water resource management. The DCPs radio their readings to NASA's Earth Resources Technology Satellite (ERTS–1) when it passed overhead, and the satellite relays the reports to a ground station.

The information is important not only to the animals and vegetation of the Everglades, but to the 2.5 million human inhabitants of southeast Florida, including those in densely populated Miami.

Until the platforms were emplaced it was difficult to get accurate readings of the amount of water in surface storage because of the large area involved, the shallow water depths, the flat terrain, and the large amount of vegetation. Except for a few radio microwave reports, all readings were made as a result of personal visits to individual stations in the Everglades about once a month. The analyzed data reached users about two months after initial recording.

Now that the DCP network is operational, Higer says users can have data from the most inaccessible regions in the Everglades—even from the middle of Lake Okeechobee at the top of the water-feeding chain to Everglades—usually within 25 to 40 minutes after measurements are taken. In addition, malfunctions in a platform are known immediately and a maintenance man can be dispatched by truck, airboat, or helicopter to make repairs.

The DCP measurements include amount of rainfall, water levels, water flow, evaporation rates, humidity, water and air temperatures, salinity, oxygen content, pollutants present, and soil moisture.

"There is probably no limit on the types of measurements we can make with the DCPs," Higer says.

The data obtained are transmitted direct from the DCP to ERTS, which passes within 2,414 kilometers (1,500 miles) on either side of the DCP, at 917 kilometers (570 miles) altitude. ERTS relays the messages to tracking stations located at either Goddard

in Greenbelt, Md., (where the ERTS Project is managed), or Goldstone, Calif. From these stations the data are teletyped to the Geological Survey's Miami office, processed through a small computer into suitable format for users, and retransmitted by land line to the U.S. Army Corps of Engineers, Central and Southern Florida Flood Control Districts, the United States Park Service, and the Florida Fish and Wildlife Office.

ERTS imagery also can provide information on the real extent of water surface, but procedures are not yet operational because picture processing is too time consuming. It requires as much as eight weeks, for delivery of pictures to users. The imagery has been useful, especially during the 1973–74 winter-spring drought situation, in comparing the surface water area with the range of water levels to calculate the amount of water stored in the various lakes, canals, and conservation areas.

Knowing the surface inflow and outflow, makes it possible to calculate the amount of seepage and evaporation and the surface water distribution. Knowledge of such hydrological conditions is necessary for the management of water resources by state and federal agencies.

Higer says he is now installing sensors on the DCPs that will report when a lack of sufficient soil moisture reaches a point indicating a fire potential. As Everglades muck dries in a drought situation, it becomes a peat-like soil easily set afire by human carelessness or even through a form of spontaneous combustion. Monitoring the soil moisture daily will make it possible to prohibit human entrance into danger areas, to pump in additional water, or to increase fire surveillance.

Some 22,500 kilometers (14,000 miles) of canals and levees in the Everglades watershed, as well as numerous dams and pumping stations, regulate the water supply, especially in drought and flood situations. The problem is to keep a good balance by allotting water from lakes such as Okeechobee (north of the Everglades) to farmers for irrigation purposes; keeping a sufficient flow of canal water for animals, fish, and vegetation; preventing salt water intrusion; and making certain there is sufficient water to recharge the underground water supply from which the city of Miami draws fresh water.

"This ERTS data-relay system has been very reliable," says Higer, "and by coupling the ground information with ERTS imagery, a modeling technique is available for water resource management in southern Florida."

FAIR COMPETITIVE PRACTICES ACT

Mr. YOUNG. Mr. President, two of the Nation's largest international airlines: Pan Am and TWA, have petitioned the Civil Aeronautics Board for emergency subsidy to meet a financial crisis caused by rising fuel costs and declining traffic. Pan Am has informed the CAB that its situation is so critical it may be unable to pay its bills by the end of this year unless it receives emergency funds.

I have no quarrel with the administration's position that direct subsidy is ill advised and inexpedient, if other means of assisting the U.S.-flag system can be initiated. It appears that the one solid example of this assistance is the International Air Transportation Fair Competitive Practices Act, which would reduce the inequities posed by a number of discriminatory actions taken by foreign-flag airlines and their governments against U.S. carriers.

There is no question but that the maintenance of the U.S.-flag system is in the interest of the American people. Pan Am and TWA together make up nearly 75 percent of the U.S.-flag system, which is acknowledged to be vital to the national economy and defense. The two airlines employ more than 65,000 people, the vast majority of which are U.S. citizens. Jobs for another 140,000 citizens depend on the viability of the U.S.-flag system.

In the case of Pan Am, this airline has committed for standby military use a fleet of more than 60 jet transports—greater than any other U.S.-flag airline—which would cost the U.S. Government over $1 billion if it had to go out and buy them today. Pan Am is the only U.S. airline presence in 40 countries overseas, where its ground-support facilities and personnel are at the call of our Defense and State Departments. And they have been used frequently, as recently as the disturbance in Cyprus.

I think everyone will agree that it is entirely unacceptable to suggest that the United States should have to rely on foreign flag airlines for the maintenance of its links with the outside world, much less for its national defense. Yet that is a very real prospect if Pan Am and other U.S.-flag airlines were to cease their international operations.

Mr. President, passage of the fair competitive practices legislation would at least bring equity and parity to the situation faced by our own airlines, vis-a-vis their subsidized foreign-flag counterparts. It would address the issue of excessive landing fees and airway user charges. And it would provide that our airlines receive the same pay for carrying U.S. overseas mail as do foreign airlines—from our own Government, no less.

I urge my colleagues to move quickly to pass the Fair Competitive Practices Act so that our airlines will at least be given equitable treatment in their battle for survival in the international marketplace.

PROJECT SURVIVAL

Mr. HARTKE. Mr. President, since last winter's oil embargo we have heard much talk about Project Independence, the name attached to the goal of national energy self-sufficiency.

Implementation of this goal must be a multifaceted process, involving simultaneous research into and development of a variety of energy source alternatives. One aspect of this program, solar energy, has already received congressional attention. But faced, Mr. President, with an international economic crisis fraught with the most dire consequences for the Western World, we should be acting more quickly and more decisively on both the short- and long-range sides of Project Independence.

Final achievement of energy self-sufficiency lies well in the future—exactly how far out, no one is quite sure. But, every day of delay in full implementation not only increases the price we will eventually have to pay but raises the danger to our civilization. To realize the full implications of Project Independence will be expensive and painful. I have seen little evidence that the administration or the Congress is realistically cognizant of what has to be done or emotionally prepared to take the necessary steps.

We are in the throes of a debate over the immediate future. The reduction of oil imports has become the rallying point; everyone is looking to emulate, in one form or another, France's admittedly courageous move. By no means do I wish to demean this new national resolve: long-term survival presumes short-term success.

However, we must recognize that this will be little more than a holding action unless combined with realistic, future-oriented programs. The alternative is a dismantling of our society as it is presently constituted into one less complex, less industrial, and, therefore, less reliant on energy producing fuels. Even those great black oceans beneath the Arabian deserts will be all but depleted in a generation at present rates of consumption.

It is always possible that major new reserves will be discovered; but that would alter the inevitable timetable by a few years or a decade at best. There is an absolute limit on the availability of fossil fuels. The United States in concert with the other industrial nations must seek out totally new alternatives which it must integrate into its technological structure; it must, in a word, develop a positive heritage for the future rather than leave the next generation a wasted world.

Officials within the administration and the Federal Energy Administration are engaged in building a national energy program that will be presented, at least in part, to the Congress in a matter of days. One item that will apparently figure prominently in the President's program is a 20 cents per gallon excise tax on gasoline to be coupled with some type of tax credit. The tax is designed to significantly reduce the demand for gasoline—which together with diesel fuel—constitutes at least 30 percent of our total consumption of oil—and to create additional revenues that, in the administration's view, would otherwise have helped to fuel inflation.

Having already expressed my reservations on the excise tax because of its regressive nature which overly burdens lower- and middle-income groups, I will not reiterate that position now. But if we are to have such taxes, the revenues generated should, to the extent necessary, be earmarked for the development of new energy sources. There will be a critical period shortly after the turn-of-the-century when natural oil and gas reserves, regardless of the present oil struggle, will be thinning out and before we have fully perfected any radically new energy source or had sufficient time to integrate it into our technological system. This transition will be necessarily long and difficult.

For that interim we will need traditional fuels; and the only reasonably plentiful source will be coal. We must begin now to perfect and make economical the liquefication and gasification of coal. Beyond the technical problems which are well within our capacity, there is the broader and more expensive task

of establishing the industrial capacity sufficient to the task of producing these fuels in the necessary quantities.

We must raise liquefication and gasification of coal to the head of our list of national priorities in conjunction not just with Project Independence, but with Project Survival. If we do not make the commitments and the sacrifices now, we will have to live with the knowledge that we were the last to have had the opportunity to reverse the process that will transform our great civilization into a decaying, powerless, energyless wasteland.

Looking even further beyond the horizon there is the demonstrated need to transform our technology from one that relies on the consumption of scarce fossil fuels into one that is ever less reliant on transient or consumable energy sources. Solar energy is the most obvious candidate, but there are other possibilities whose potential may be even greater. It is only commitment that stands between us and a future of inexhaustible energy. We must and will learn to adapt and utilize the heat and movement of the Earth, the radiations of the Sun, and the physical laws of the universe.

So crucial to our survival is this problem that we must be constantly vigilant that we do not become once again complacent. Our ingrained sense of optimism together with a deep desire to "return to normalcy" can easily lead to the suicidal attitude that the situation will eventually right itself. The greater our short-term success in dealing with the present oil crisis, the more prone we will be to an erosion of our commitment and dulling of our memory. This we must not do. Our future, indeed, the future of all mankind, is at stake.

HOW WE PROVIDE OUR FOOD AID

Mr. HUMPHREY. Mr. President, I was troubled by two recent articles on the U.S. food aid program. Dan Morgan's article, "Dacca Aid Tied to Cuba Ban," in the September Washington Post, and the September 21 New York Times article, "Ford Aides Split Sharply on Food and Oil," by Leslie Gelb, are worthy of serious attention.

The Washington Post article reports that the United States told the Bangladesh Government that it would have to stop exporting locally made gunny sacks to Cuba if it wished to receive further U.S. food aid on concessional terms.

Shortly thereafter, our Government waived the same trading restriction in order to authorize $27 million in concessional loans to Egypt for 100,000 tons of wheat and 4,000 tons of tobacco.

It would seem to me that at least we should have treated the two countries equally. No one claims that the gunny sacks have a strategic value, and a poor country like Bangladesh needs whatever trade it can develop.

The New York Times article outlines in some detail how our Government has struggled over reaching a decision on our level of food aid. While I recognize that our food availabilities have been reduced by bad harvests, we have not given adequate priority to the world food problem and the critical position we occupy on this issue. Preparations for the World Food Conference also have lagged as a result.

Mr. President, I commend these articles to my colleagues, and I ask unanimous consent that they be included at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 21, 1974]

FORD AIDES SPLIT SHARPLY ON FOOD AND OIL

(By Leslie H. Gelb)

WASHINGTON, September 20.—President Ford's speech at the United Nations Wednesday, linking the world's food and energy problems, represented a compromise of sharp differences with the Administration.

The speech, which implied that the oil-producing nations would have to "give" on oil if United States was to "give" on food, also reflected Mr. Ford's apparent recognition that Washington had little direct leverage on the oil producers.

The Administration debate pitted the State Department, which wanted to almost double the food aid program to about $1.8-billion, against the Office of Management and Budget, headed by Roy L. Ash, and the Council of Economic Advisers, which opposed any increase.

In the middle and with shifting positions were the President's Council for International Economic Policy, the Treasury Department and the Agriculture Department. They favored a small conditional increase. Secretary of Agriculture Earl L. Butz, in particular, spoke against increases publicly but basically supported Mr. Kissinger in private.

OFFICIALS INTERVIEWED

The unfolding of the Administration debate and the blackground and underlying meaning of the President's speech were pieced together from interviews by The New York Times with officials throughout the Administration.

On Tuesday, Mr. Ford met with Secretary of State Kissinger, Secretary Butz and Alan Greenspan, chairman of the Council of Economic Advisers.

Before them was a draft of the speech, the speech, the distillation of hundreds of conflicting memos that had been written by their aides. Embodied in the draft was Mr. Kissinger's central point—that the United States could not expect oil nations to expand production and hold down prices unless the United States demonstrated a willingness to do the same and to share its food resources with the needy.

The President accepted this point and approved an increase in the dollar amount of American food aid, thus ending a battle among agency heads that had begun six months before during the Nixon Administration.

Although Mr. Kissinger had to scale down his dollar demands, the speech was a victory for him. The Food for Peace program was increased by what was described as a substantial amount, reportedly from about $900-million to about $1.35-billion, and there is the prospect of an additional increase depending on economic conditions.

But the President's speech was also seen as a compromise by the participants and had something in it for almost all of the departments and agencies.

For the Agriculture Department, the Council of Economic Advisers and the Treasury Department, no mention was made of the new dollar total, in an effort to dampen the inflationary effects of the increase. Their concern was that the increase might spark panic buying and drive prices up.

For the Agriculture Department, the speech clearly stated the principle that other nations must share in the food effort.

For the Treasury Department and the Council on International Economic Policy, the speech included pointed references to the responsibilities of the oil nations in energy matters.

For the Office of Management and Budget, interested in holding back Government spending, the dollar total was lower than the State Department wanted.

DISPUTE BEGAN IN FEBRUARY

The evolution of the conflict over food aid and prices dates back to February and the Washington energy conference. At that time, the consensus within the Nixon Administration was to do nothing about food aid and prices. In this way, the officials hoped, the poorer nations caught in a food and energy price squeeze would turn on the oil producers and force them to lower prices.

But Mr. Kissinger, under the influence of aides and friends, changed his stance after the conference and this brought him into conflict with George P. Shultz, who then was Secretary of the Treasury. This dispute reached its peak when Mr. Kissinger was preparing a speech on food and energy for delivery to the United Nations General Assembly in April.

Mr. Kissinger's speech treated food and energy as interrelated parts of the problem of world inflation. Mr. Shultz flatly objected to Mr. Kissinger's giving this kind of speech, but Mr. Kissinger went ahead anyway.

The speech was a call for a world food conference. It was not well received at the United Nations, where many saw it as a last-minute effort to capture the spotlight. But American officials immediately set to work to determine whether additional food aid would be possible and to formulate a position on world food reserve stocks.

The Agriculture Department argued that the State Department was grossly exaggerating the world hunger problem. A new study was undertaken by the Agriculture Department and a consensus was reached that the hunger problem was real, but Mr. Butz remained more optimistic about it than Mr. Kissinger.

The State Department was arguing that the Agriculture Department, the Council of Economic Advisers and the Treasury were overdramatizing the inflationary impact of more food aid. A study was undertaken by the Office of Management and Budget and showed that more wheat aid, for example, would not increase the price of bread more than about one cent a loaf.

Moreover, it was generally agreed that unexpected price effects could be moderated by not disclosing the extent of the food-aid increase and by making decisions on food aid shipments quarterly so their effect on domestic prices could be more accurately gauged.

CROPS REPORT AWAITED

The Treasury wanted to increase cash food sales abroad to offset increasingly higher oil prices and the balance-of-payments problem. It was told that it would have to await a new American crop report.

Officials hoped that predictions of bumper crops of wheat and corn would prove accurate and that a large crop would make their decision easier. But the August report was not encouraging, particularly on corn and other feed grains. Meanwhile, prices were rising. It was decided to wait for the September crop report. That one largely confirmed the August report—the wheat crop was a record but less than predicted; soybean and corn were still disappointing despite August rains.

[From the Washington Post, Sept. 30, 1974]

DACCA AID TIED TO CUBA BAN

(By Dan Morgan)

The United States told the Bangladesh government this summer that unless it stopped exporting locally made gunny sacks

to Cuba, it would be ineligible to receive further loans on easy terms to buy urgently needed American food.

The U.S. position on Bangladesh's non-eligibility for credit under the Food for Peace program came shortly before President Ford waived restrictions resulting from Egypt's continuing trade with Cuba, "in the national interest."

During the period in which the Dacca government was seeking to overcome the obstacles to American aid, Washington authorized loans to Cairo totaling $27 million for the purchase of 4,000 tons of U.S. tobacco and 100,000 tons of wheat.

American officials reported last week that Bangladesh had now agreed to cease all future shipments to Cuba of the gunny bags, one of the country's few export items. Gunny is a strong, coarse, loosely woven material made from jute. The bags are used all over the world to carry rice, grain, sugar and fertilizer.

As a result of the agreement, the officials said, it is expected that the United States will sign contracts in Dacca in a few days providing for shipment of 100,000 tons of wheat and 50,000 tons of rice to the flood-stricken country.

Officials at both the State and Agriculture Departments denied that the Cuban trade problem had resulted in the United States withholding food that could have kept people from starving in South Asia. They said that no firm allocations of wheat or rice under the aid program were made until September in any case, because of drought caused commodity shortages in this country.

In addition, officials of the U.S. Agency for International Development said that current stocks of food in the hands of the Dacca government exceed 250,000 tons and were adequate to prevent mass starvation and hunger. About 73,000 tons of U.S. wheat from last year's program arrived in Dacca in July, a month after the Cuban problem arose.

Nevertheless, critics of Washington's food policy said privately that the comparison of the U.S. handling of the Egyptian and Bangladesh food requests was symbolic of current American aid priorities.

Sources here said that despite pronouncements by Mr. Ford and Secretary of State Henry A. Kissinger at the United Nations that the United States would "increase" its food assistance this year, no such decision had yet been taken.

Also, Kissinger has told government policy makers that "security assistance" must continue to take priority over development aid or humanitarian considerations in the U.S. food credit program called Public Law 480.

Updated Agriculture Department figures show that 70 per cent of all such low-interest, long-term credits granted in fiscal 1974 went to Vietnam or Cambodia. The proceeds from the local sale of the American commodities were available to the governments.

Administration officials have said that priorities will change in the 1975 program, and Congress is seeking to place limits on the amount of food aid that can be allocated to Indochina.

However, three sources said last week that representatives of government departments "tentatively" decided last Monday to give priority in the coming months to food requests from South Vietnam, Cambodia, Egypt, and Syria. Following those countries on the priority list were Chile and Bangladesh.

India, which is facing a potential food deficit of some 6 million tons this year, but which has not explicitly sought loans to buy food, was not listed.

During his Middle East diplomatic efforts this spring, Kissinger pledged the United States to substantial aid efforts there. But funding for these projects is now threatened by Senate opposition to the new foreign aid bill.

The aid bill reported by the Senate Foreign Relations Committee includes a $100 million "special requirements" fund, earmarked for Syria, and $253 million in aid to Egypt, both new in the program.

Administration strategists say that if the foreign assistance package fails in the Senate, these commitments may be made up by allocating funds authorized under Public Law 480. Under this plan, the Middle East governments could sell agricultural commodities purchased under the long-term, low-interest credits and use the proceeds for local development projects.

Since a projected shortfall in several major American crops this year has reduced the amount of food available for shipment under the government program, massive food sales to the Middle East would require economies in other areas of the world, officials said.

Bangladesh and Egypt are both seeking 700,000 tons of food through the U.S. credit program.

Bangladesh planners pressed their case in Washington last week with top U.S. officials, but according to an Agriculture Deparmtent aide, "Until the domestic and overseas needs are evaluated, they'll have to wait."

Dacca officials described the U.S. offers so far as "short of what is required."

AID officials maintain that Bangladesh has fared relatively well under the food aid program. In the previous year, they said, the country got 400,000 tons of wheat under the program, the most for a single country. Officials said that the United States exceeded a 1972 pledge to provide more than $60 million worth of food as part of an international effort.

Requests for vegetable oils have been turned down because of a shortage in the United States.

Dacca has estimated its coming food deficit at 2.3 million tons. Officials here say the country needs food badly but add that estimate is too high.

The Cuban trade problem arose in June, when a sale valued at several million dollars to Havana of the gunny bags showed up on export reports.

"We had to tell the (American) authorities we didn't know about the provision in the law," a senior Bangladesh official said. "We had to promise not to do so in the future . . . that is why the delay took place."

U.S. officials conceded that Washington's own policy toward Cuban trade may have added to the confusion.

On April 18, the State Department announced that export licenses would be issued to American subsidiaries of General Motors, Ford and Chrysler in Argentina so that they could sell equipment to Cuba.

Since 1967, foreign countries that sell to Cuba and North Vietnam have been ineligible for credits through the U.S. food aid program. But the President could waive the ban "in the national interest," providing the sales were only of medical supplies, food or agricultural goods.

On Aug. 14, Mr. Ford, in one of his first acts as President, issued such a waiver for the sale of 100,000 metric tons of wheat to Egypt. The deal, valued at $17 million, was signed in Cairo on Sept. 12.

However, on June 7, the United States had concluded a credit to Egypt for $10 million for the purchase of more than 4,000 tons of tobacco. Agriculture Department officials said that they could find no presidential waiver covering the Cuban trade problem for that loan.

"My supposition is the order to have a program for Egypt came down from Kissinger's office, and having found there was a problem they went to the White House," an official said.

Officials said that Egypt's trade with Cuba was not in contention, although the details of it were not available. However, they said that Egyptian exports, such as cotton, were excludable under the terms of the 1967 law. They said no such exclusion was possible for the gunny sacks made in Bangladesh.

PRESERVING MINNESOTA RIVERS

Mr. HUMPHREY. Mr. President, I am highly gratified that on October 3, the Senate passed an important bill of which I am a cosponsor—S. 3022, amending the Wild and Scenic Rivers Act and the Lower St. Croix River Act of 1972.

One purpose of this bill is to preserve the natural environment of the lower St. Croix River. This section of the river, located near Minneapolis-St. Paul, retains its natural beauty but is subject to development pressures. Although the Lower St. Croix River Act of 1972 provided funds for land purchases, cost evaluations have shown this authorizational level to be seriously inadequate to assure protection of the 27 miles for which the Federal Government is responsible for preserving. Therefore, S. 3022 raises the authorization ceiling from $7.275 milion to $19 million. It will be recalled that a highly significant agreement was achieved under the 1972 law, whereby the States of Minnesota and Wisconsin are undertaking parallel programs of land purchases and scenic easements to protect another 25 miles of the riverway for which they are responsible.

Under the amendments to the Wild and Scenic Rivers Act of 1968, two additional Minnesota rivers would be studied for incorporation into the system, to assure their continued protection. One of these, the Kettle River, is now being studied by the State of Minnesota. The Kettle River is almost totally unspoiled. Wildlife and fish abound in the area. It is one of the finest rivers in the United States for canoeing.

Also included for study is the upper Mississippi, from Itasca Lake to the city of Anoka. The geological origins of Minnesota can be found along the banks of the upper Mississippi, and the river itself is widely known as a panorama of serenity and beauty. However, serious harm can result from uncontrolled recreational use.

Mr. President, enactment of this legislation would provide vital environmental protection for all Americans. I urge that final action be taken prior to the adjournment of Congress.

GREENSPAN TESTIFIES

Mr. HUMPHREY. Mr. President, last Thursday, September 23, Mr. Alan Greenspan, Chairman of the Council of Economic Advisers, testified before me and the other Members of the Joint Economic Committee on the inflation problem. I called these hearings because I believed it was essential to have a true picture of the inflation outlook before the Economic Summit.

I found the hearing productive because Mr. Greenspan is an intelligent, candid witness. The committee was spared another round with Dr. Pangloss, as had been the case so often in the past with Mr. Greenspan's predecessor. Instead, the committee was provided with

some straight talk about the serious economic situation.

In fact, Mr. Greenspan agreed with me that our economic outlook is extremely serious, and it could get worse before it gets better. Let me just repeat one of the exchanges Dr. Greenspan and I had on this matter:

Senator HUMPHREY. Let me just say, Mr. Greenspan, that I do not think that we are going to find any miracle cure to restore the economy to a healthy growth and a sudden stop in inflation, and a sharp reduction in unemployment. But I think the point that we are trying to make is, surely we have got to move some way to some improvement. . . . We should tell this audience and we should tell this country that unless something is done that is very different from what we have done, the consumer price index is going to be up; the people are going to pay more for what they buy; the worker's income and his purchasing power is going to go down; the gross national product is going to decline; and we are going to be in serious economic trouble.

Now, that is not an exaggeration of the facts. Would you agree with that?

Mr. GREENSPAN. It is not an exaggeration.

Mr. President, I now anxiously await the package of new economic proposals that President Ford will soon submit to the Congress. My comments at the Economic Summit indicate that I am ready to cooperate with the President, if he comes up with truly new and equitable policies. If he does not, the Congress must continue to shoulder the major burden for the formulation of new economic policies.

Mr. President, I ask unanimous consent that my opening statement and Mr. Greenspan's testimony for the September 26 hearing be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Congress of the United States Joint Economic Committee, September 26, 1974]

OPENING STATEMENT OF SENATOR HUBERT H. HUMPHREY

Today the Joint Economic Committee is pleased to have before it Mr. Alan Greenspan, Chairman of the Council of Economic Advisers, to discuss the inflation outlook. This is Mr. Greenspan's first appearance before the Committee as Chairman of the CEA and we welcome him. We hope to have a good working relationship with him, as we have had with the Council in general, and we hope he will bring more luck to us in the area of economic policy than did his predecessor.

The economic situation is grave. Prices rose at an annual rate of nearly 11 percent during the first half of this year. Real output fell at about a four percent annual rate during the first half, and it now appears that output may continue to decline, or at best, remain flat for the rest of the year. The unemployment rate has risen from 4.6 percent last October to 5.4 percent in August and can be expected to rise much further. Credit scarcity, record high interest rates, and uncertainty regarding economic outlook have created a situation of great stress in financial markets.

I could go on enumerating many of the other woes that beset the economy of this Nation, but that is obvious to all but the blind, and serves no useful purpose at this time.

One purpose of this hearing will be to assess if recent price statistics mean inflation and the economic outlook is getting worse. The August increase in wholesale prices of 3.9 percent, for example, coming on top of the 3.7 percent increase in July, has accelerated wholesale prices in the last three months to an annual rate of increase of 37 percent. Consumer prices have also shown some acceleration, jumping 1.3 percent in August alone, which means a 13 percent annual rate of increase in the last three months.

These statistics raise several questions.

Can we expect the rate of inflation to continue to accelerate in the months ahead?

Why are all these prices accelerating in a slack economy that is in the throes of a recession?

Finally, will this recent acceleration of inflation throw the Nation into a more severe recession?

The take-home pay of the average consumer dropped about one percent in August alone, and is now down about four percent from a year ago. I frankly do not see how consumers can continue to afford to buy homes, cars, food, and many other products at current price levels.

I think it is essential that we have the best answers to these questions that we can get before we try to formulate sensible and effective economic policies at the Economic Summit.

With respect to the Economic Summit, it seems to me that the Nation must choose between three packages of economic prescriptions.

The first package of policies is what has commonly come to be called the old time religion—drastic cuts in the Federal budget accompanied by very tight monetary policy. I reject this position because there is no evidence to show that our current inflation has arisen from profligate fiscal action by the Federal Government, and extremely tight monetary and fiscal policy at this time could throw the Nation and the world into a more severe recession. We need fiscal discipline but not the old time religion.

A second set of policies is what I would call the middle-of-the-road or the consensus package. This set of policies, a great improvement over the old time religion, advocates a slight easing of monetary restraint, a more vigorous jawboning on wages and prices by the Federal Government, an expansion of public service jobs to help the unemployed, a tax cut for the poor, as well as other worthwhile proposals. I support this consensus package and hope that it is the very least that we can get out of the Economic Summit.

But I am not sure this middle-of-the-road package is enough to break the inflationary psychosis that has the economy in its grip. I think we ned to consider more drastic action, including: credit allocation, reactivation of housing subsidies, tax credits tied to wage and price restraints, a wage-price freeze and a much tougher price-incomes policy, a new Secretary of Agriculture and a new set of agricultural policies, refusal to buy the OPEC oil above a certain price, establishment of constant purchasing power bonds, and the establishment of an improved economic management and planning system in the Federal Government. Perhaps we will have a chance to discuss some of these in the course of the hearings. Mr. Greenspan, please go ahead with your formal presentation.

STATEMENT OF ALAN GREENSPAN

I share Senator Humphrey's concern as expressed in his letter inviting me to appear here today that the wholesale price index for August presages further inflationary pressures in the months ahead. Indeed while I wish it were otherwise, the balance of evidence at this point supports this view. There are some faint, preliminary suggestions of an easing in price pressures including some very early indications that the reduction in demand for inventories in a number of sectors is beginning to induce some shadings and discounts in a number of prices. I also find some comfort in the fact that the most recent report of the National Association of Purchasing Management, a report I find to be a quite sensitive indicator of economic activity, indicates some evidence of slippages in a number of prices. While this evidence should not be disregarded it is still too fragmentary to warrant any real conviction that a significant diminution in the rate of inflation is at hand.

Certainly the outlook for food prices is not encouraging. It had appeared as recently as mid-June that bountiful crops and enlarged supplies of livestock would stabilize agricultural and food prices throughout the remainder of 1974 and well into 1975. The unfortunate occurrence of the drought and the most recent frost has sharply curtailed the crop outlook and farm prices have moved up. Food prices, as you know, were reported to be up 1.4 percent (seasonally adjusted) at retail during August and preliminary indications suggest a further strong advance in September. There may be some modest decline in the rate of increase in food prices in the months immediately ahead but it is certainly not an encouraging outlook.

Hopefully large plantings for the 1975 crop will help suppress any major expansion in crop prices beyond the first of the year. However, we cannot count with assurance on significant price declines early next year in anticipation of enlarged supplies following next year's harvest. While there is a reasonable expectation of favorable 1975 crops, we must recognize that the 1975 crops are a long way off and at this point we must assume that food and farm prices will be rising at an unacceptably high rate during the period immediately ahead.

Moving to the nonfood side, increases in the industrial commodity component of the Wholesale Price Index as you know have been quite rapid. I would generally characterize these price increases as (1) attributable to shortages of capacity, (2) oil price related or (3) reflecting passthrough of materials cost increases stemming from the two preceding sources. This is a rather simplistic classification but, nonetheless, it does shed some light on the composition of the industrial price increases. Classification albeit crude of the industrial price increases from June to August into these three categories suggests about half of the overall rise was owing to capacity shortages and the remainder was attributable about equally to crude-oil related increases and to cost passthroughs.

The sharp price rises in metals, paper and many industrial chemicals are attributable in large measure to capacity shortages. In addition the various freezes and phases which ended on April 30th of this year resulted in a number of prices being well below what I would call the equilibrium market price—that price which yields a rate of return in the longer-term sufficient to support a rate of capacity expansion which meets the long-term needs of the American economy. I believe, for example, that the very sharp run-up in steel prices reflects this phenomenon. As you may recall a large and growing proportion of United States steel consumption was being supplied by foreign steel mills. In fact, steel capacity expansion in the United States lagged for some time because of the ability of foreign producers to fill a growing proportion of U.S. needs at competitive prices and the widespread expectation that much of the future increase in the steel needs of American industry would come from abroad. The devaluation of August 1971, however, significantly diminished foreign competitive strength and meant that the American steel industry would have to expand rapidly in order to fill the gap that previously was expected to be

filled from foreign sources. Unfortunately earnings expectations at then existing prices were not adequate to support expansion. Price increases during the control period which ended last April apparently were not adequate to generate expectations of sufficient rate of return to engender expansion in the industry. As you know, we have since had very substantial increases in steel mill product prices.

I must say that earlier this year I believed that steel mill prices under Phase IV were still well under their equilibrium price. At this point after the recent substantial rise I do not know whether we are above, below, or at the equilibrium point. But the profit outlook has clearly improved considerably and I would expect some major expansion in steel mill products.

Paper, industrial chemicals and a number of other industries also exemplify sharp price increases stemming from capacity shortages and earlier efforts to hold prices well below equilibrium levels.

The sharp surge in petroleum prices has been a second major source underlying industrial price increases. Although we have not seen any significant easing of foreign crude oil prices, the rate of increase has slowed dramatically both for refined products and domestic crude oil. However, the secondary effects of higher oil prices are and will continue to be felt in a number of diverse industrial products. The sharp run-up in petrochemical feedstock costs, for example, has affected resins, plastics, fibers, etc. although some of the effect is now diminishing. It has also, of course, put significant pressure on other fossil fuels and consequently has been a major contributor to the rise in electric power rates.

Finally there is the very large number of industrial products where price increases reflect general inflation. After a relatively long period of modest price behavior prices of machinery and equipment have begun to rise more rapidly reflecting large increases in underlying costs. Similar developments are occurring in the transport equipment area, auto, trucks, railroad equipment and so forth.

As the Committee knows the price forecasting performance of the economic profession is less than distinguished. The reasons are not difficult to find. The world has been buffetted by a series of largely unprecedented forces. But even if we had been able to anticipate many of the major international events in the commodity markets and in the financial markets, it is still not clear how successful we would have been in forecasting prices. There has been and there continues to be considerable differences among economists on how they view the price making processes. Even our more sophisticated econometric models have not captured the very subtle elements which have entered into major price changes. We at the Council of Economic Advisers are endeavoring to improve our price analysis techniques.

In the longer-term and as I testified at the House Budget Committee yesterday, the general price level is essentially a financial phenomenon which largely reflects changes in unit money supply. But it is not clear in the most recent period whether the rapidly rising prices of certain types of products produced an accommodation of increasing credit and money supply via the Federal Reserve or to what extent the capital markets and fiscal policy have been pressing on the money supply to induce an underlying unit money supply increase. But while I am convinced that in the longer-term sense inflation is a financial problem short-run price forecasting must nonetheless continue to attempt to analyze and project the individual price components which make up our indexes. Hopefully our price analysis techniques will improve enough to shed more light on the inflationary process.

Supplement to Testimony

Elements in the Interpretation of Price Statistics

High rates of inflation serve to call considerable public attention to the measures we use to chart inflation's course. There are a number of elements which must be understood in order to put each month's statistics into proper perspective.

Each month we are exposed to a summary statistic on the Wholesale Price Index—the percentage change from the preceding month. The results are usually viewed as a harbinger of what will happen to the Consumer Price Index later on. But two consecutive monthly increases of the same amount can have much different implications. This is because the WPI is an aggregation of price changes which in total have little meaning but which when properly dissected do indeed contain important information about the future course of commodity prices in the CPI.

The two major components of the WPI are farm products and processed foods and feeds, and industrial commodities. These two components should be viewed separately because they frequently are influenced by quite different factors. But each component in turn contains three kind of items—crude or relatively unprocessed items, semi-processed items made from them, and finished goods made from both. Now if crude prices rise, intermediate and finished goods prices are likely to do so as well. In the WPI increases for all three kinds of items are added together. This leads to double, even triple counting. A rise in iron ore prices will likely increase steel prices which will result in higher auto prices. It is the higher auto prices which will affect the CPI, not the sum of the higher iron ore, steel, and auto prices. It follows that both the farm and food and industrial commodity components of the WPI will likely show higher overall increases than prices of the finished goods in each of the two components. In table 1, it can be seen that this is largely so and would be even more apparent if the finished goods components were lagged to reflect the time it takes crude and intermediate product prices to influence finished goods prices. But even then it will not always be so, particularly when other costs such as labor costs are rising faster than materials costs.

TABLE 1.—WPI COMPONENTS, PERCENT CHANGE, SEASONALLY ADJUSTED ANNUAL RATE

6 mo. ended	Farm prods. and processed foods and feeds	Consumer foods	Difference	Industrial commodities	Consumer finished goods except food	Difference
June 1969	10.1	9.1	1.0	3.3	3.1	0.2
December 1969	5.2	8.0	—2.8	4.6	2.9	1.7
June 1970	—2.0	—2.9	.9	3.5	2.3	1.2
December 1970	—0.4	—1.6	1.2	3.7	5.3	—1.6
June 1971	6.8	7.1	—.3	3.5	1.6	1.9
December 1971	5.5	4.9	.6	3.0	2.0	1.0
June 1972	4.5	2.5	2.0	4.0	2.3	1.7
December 1972	25.1	14.1	11.0	3.2	2.1	1.1
June 1973	45.8	27.0	18.8	10.6	6.7	3.9
December 1973	10.4	18.5	—8.1	10.9	8.1	2.8
June 1974	—11.5	—1.1	—10.4	34.0	26.8	7.2

The foregoing underscores the need to look at WPI increases in a stage-of-processing framework. We do this at the CEA both in analyzing past price developments and forecasting future ones. The framework we use is set forth in the Appendix Supplement to our testimony before this Committee on July 30, 1974.

Another element in the interpretation of both the CPI and WPI is that some components are measured with a lag. That is the percentage change in these items actually occurred prior to the monthly change purportedly measured by the current and previous month's index. One important instance is the fuels component of the WPI industrial commodity index. This component has been improved as a result of a program undertaken some time ago to obtain actual transactions prices for refined petroleum products instead of relying on a trade publication sources which provide primarily spot market prices. BLS now obtains average realized prices on sales by producers to distributors but these prices come to BLS too late for inclusion in the index for the month to which the changes refer. As a result they are put in the following month's index.

In table 2, estimates appear of what the WPI industrial price changes would have been if the fuels component, much of which is lagged, were in fact not lagged. Obviously, there is no estimate for August 1974 because the fuel component for that month will be published as part of the September WPI. As can be seen, lagging the component can cause significant distortion in some months. Prices of many industrial chemicals are also lagged in the WPI. Lagged prices are also found in the CPI.

TABLE 2.—WPI INDUSTRIALS, MONTHLY PERCENTAGE CHANGES (NOT SEASONALLY ADJUSTED)

	As reported	As adjusted for fuel component lag
1973:		
August	0.5	0.6
September	.6	.6
October	.9	1.1
November	1.2	1.4
December	1.6	1.9
1974:		
January	2.3	2.5
February	2.1	1.8
March	3.0	2.8
April	2.9	2.8
May	2.7	2.6
June	2.1	2.4
July	2.7	2.3
August	2.4	NA

Another element to be considered in the interpretation of price changes arises because the market basket or set of weights used in the construction of both our Consumer and Wholesale Price Indexes (CPI and WPI) are quite out of date. Most of the information about weights for the CPI was derived from a survey of consumer expenditures done in 1960 and 1961. Thus, in 1973 it appeared that the weight implied in the relative importance of food in the CPI market basket was overstated by about 5 percentage points. During 1973 the CPI rose 8.8 percent, the food component, 20.1 percent. If the food weight were lowered by 5 percentage points and the weight of other items increased by 5 percentage points, the rise in the overall CPI would have been 8.1 percent, or almost 10 percent less. Similar examples of distortion can also be found elsewhere in the CPI and in the WPI.

Of course, no weighting structure, no matter how current, is perfect. In the short run, as well as in the long run, consumers and producers adjust their purchases to obtain the most satisfaction or input for the least cost. These substitutions in response to relative price changes may cause fixed weighted indexes such as the CPI and WPI to differ from what true cost of living or cost of production indexes would show, if we could estimate them.

The price quotations in both the CPI and WPI are rendered inaccurate to the extent quality change in the items being priced goes undetected. This is a longstanding problem, particularly difficult to remedy in the areas of prices of personal services. And sometimes changes in discounts that are unreported to BLS cause some prices in the WPI particularly to vary from the actual transactions prices obtaining in markets. The introduction of realized prices for refined petroleum products and some industrial chemicals and the use of prices paid by purchasers of aluminum ingots have improved the WPI in these important areas.

Apart from the analysis of inflation, price indexes are used to deflate the purchases represented in GNP to arrive at an estimate of real GNP or output. Many of the problems noted above, by affecting the price measures, affect the calculation of output changes. So does another element not yet mentioned. Where WPI series are used as deflators (some CPI series as well) a distortion arises because WPI prices relate more closely to the prices at which new orders are taken, not the prices applying to the actual shipments. In some cases like machinery and equipment the lag may be quite lengthy. Thus, current WPI series should themselves be lagged before they are divided into purchases to obtain real GNP.

Finally, the analysis of inflation suffers from the lack of price data for all economic sectors. There are gaps in information about prices paid by final purchasers, particularly by governments and plant and equipment purchasers in the private sector. Less is known about prices paid by intermediate purchasers. The WPI, after all, covers only agriculture, mining and manufacturing—and there are gaps in its coverage of manufacturing. We have little valid information about transportation and communication rates, imports, commercial rents and prices of other business services. So even the WPI, CPI and GNP deflator taken together do not tell all the story.

A TIME FOR PETROLEUM PRICING LEADERSHIP

Mr. HUMPHREY. Mr. President, we have been awaiting firm leadership from the administration to deal with the burgeoning crisis America and the world face from the cartelization of international oil. The Arab nations have the industrialized and most third world countries in a vise—we must pay any price they ask for oil or we can watch our massive economies grind to a halt.

Each year, the oil-exporting countries are asking that we ship to them between $80 and $100 billion—which they can use to disrupt international money markets or to acquire real property and companies in the industrialized nations. The time for forceful action to seek a reduction in Arab oil prices is slipping away. Every day, they receive $300 million in oil revenues, revenues which can be used to withstand any type of economic sanction imposed by nations attempting to force oil prices down. Yet, the administration's only action has been to publicly display its internal bickering over oil policy. The administration must stop talking and start developing a sound program to deal with both the short-run and the long-run implications of the oil cartel.

We must conserve energy. What has been the administration's response to energy conservation? Another tax on consumers in the guise of a gasoline tax hike is hardly the answer when real consumer incomes have fallen 5 percent in the past year.

We must turn to the quick development of alternative energy sources. What has the administration recommended to achieve new breakthroughs in alternative sources of energy? The Republicans originally rallied around what was termed "Project Independence." We do not hear much about Project Independence anymore. What we do hear is that oil production from our domestic wells is declining—it is now down 5 percent from the same period last year. I would call that Project Dependence. The Congress is seeking to develop other energy sources; my solar energy bill to provide some $1 billion for this major alternative energy source to oil has been approved by both Houses specifically to meet the challenge of Project Independence.

Mr. President, our economic well-being is severely threatened by the soaring price of international oil. The many-faceted dangers we face are outlined very well in an editorial entitled, "The Real Economic Threat," from the September 22, 1974, New York Times. The Congress is facing up to these dangers. The administration is not. As the editorial notes—

There should be no further delay in this country's launching of an energy program capable of meeting both the immediate and long-range challenges.

We can wait no longer for that leadership from the White House.

Mr. President, I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE REAL ECONOMIC THREAT

The United States and the rest of the non-Communist world are facing an extreme threat to the global economy that is receiving only peripheral attention in the conferences President Ford has initiated to fight "public enemy No. 1"—inflation. The threat is unprecedented; it involves sudden and massive transfers of income, wealth and power to the small group of oil-exporting countries, with corresponding drain of staggering dimensions upon the resources of oil-importing countries. Only a few days ago the oil exporters, meeting in Vienna, again made clear their determination to maintain and even increase their "take."

I. DIMENSIONS OF THE CHALLENGE

As a result of a quadrupling of oil prices in the last year, the accumulation of foreign funds by the Arab states and other members of the international oil cartel will in this year alone amount to some $75 billion.

The problem will intensify the longer it lasts—and there is no end in sight. With two to three billion dollars flowing to the oil producers every week for years to come, the World Bank estimates that the Organization of Petroleum Exporting Countries (OPEC) could accumulate $650 billion within five years and $1.2 trillion by 1985. By comparison, the international reserves of foreign exchange and gold owned by the United States now amount to $14 billion, and those held by Germany—at present the largest holder of gold and foreign exchange in the world—total $34 billion.

If anything like the shift of wealth indicated by the World Bank's projections comes about, the oil producing states of the Middle East will become the center of world wealth and power. Those nations will be able to import vast quantities of armaments and advanced military technology from the West, as they have already begun to do. They will have a growing influence over the business and government establishments of many other countries and will be able to acquire vast holdings of industrial and real estate properties in the West.

The sudden skyrocketing of oil prices by the international monopoly is now a major source of inflation and balance-of-payments instability, as importing nations struggle to meet their foreign oil bills. For many countries, the oil bill simply cannot be paid if present prices hold. Nations with weak economies and weak international payments positions—such as India and Italy—are being driven into insolvency. Their breakdown could spread to other nations and financial institutions throughout the world.

The internal prices of most oil-importing countries have already risen in sharp response to the rise in the international price of oil, thus moving toward a theoretical balance at a highly inflated level. But if the oil importers permit international balance to be achieved in this way the results will be disastrous. The worldwide inflationary spiral would surely get out of hand, undermining the value of all currencies. In any event, the oil producers appear determined to maintain their new relative price advantages by raising oil prices further as inflation continues. Some are prepared to cut back their oil production in order to keep prices up and in fact have already begun to do so.

II. NEED FOR A COUNTERFORCE

The time has come to speak plainly. The United States and its allies must take effective economic action against the international oil cartel.

A viable program is now urgent to counter the double threat of world inflation and world depression. The first requirement is to recognize, at the series of conferences President Ford is holding with economists, business, labor and other leaders, that inflation cannot be solved without a fundamental attack on the worldwide energy problem. Simply stated, the price of oil must be brought down, and this country and others must develop alternative sources of energy on a "crash" basis.

Optimistic economists have contended that the problem of "recycling" oil dollars can be dealt with by normal capital markets—this

on the theory that the oil-producing states must invest their money "somewhere." Unfortunately, an automatic re-establishment of equilibrium is not a realistic possibility; the flows are simply too huge. The international imbalances grow daily.

Unless equilibrium is restored to the world economy by sharply reducing the oil price, not only the United States and other oil-importing states but the oil-producing countries themselves will suffer in a general economic catastrophe. Their seeming wealth will prove worthless paper; their development programs will founder; their security will be jeopardized.

Powerful though such considerations should be, the United States cannot depend on their force alone to bring down the oil price, nor can it meet the challenge by simply offering its own economic cooperation to foreign development programs.

The only effective counterforce will be a demonstration by the United States and its allies that they mean business, that they are prepared to act in their own defense to safeguard the world economy from breakdown.

III. PROGRAM FOR SURVIVAL

Since the primary obligation will rest on this country, an essential starting point is a call by President Ford for an all-out program of energy conservation, beginning here at home. This means a Presidential call on all Americans to make genuine sacrifices far beyond anything implied for former President Nixon's "Project Independence." Such a plan will necessitate a program to restrict or penalize the wasteful use of petroleum, whether in autos, air-conditioning, heat or industrial use.

To the degree possible, such an austerity program should depend on voluntary measures and on taxation designed to limit energy consumption. In the interests of fairness to all citizens and of balance to the economic system, a stand-by program of rationing and fuel allocation may also be required.

The United States has to be prepared to put forward specific plans for sharing its own fuel with those who will be affected even more severely by the necessity for energy conservation. At the same time, the President will have to revitalize the faltering efforts initiated a year ago to provide this country and others with alternative fuel sources. Similar efforts to conserve fuel and to develop energy sources will be needed in other industrialized nations, most of which are vastly more dependent on Middle East oil than is the United States.

In recognition of this disparity, the United States must do now what it would have to do in any case by the end of this century: develop other energy sources including especially coal, natural gas and nuclear and solar energy.

This country has enormous recoverable coal reserves—33,588 quadrillion B.T.U.'s of energy, more than seven times the oil reserves of the entire Persian Gulf and North Africa. To develop its own coal and other energy resources, the United States will have to insure an adequate price for coal and other fuels. American producers and investors will need the assurance of a profitable long-term supply price if they are to be willing to make the billions of dollars in necessary investment.

The difficulties of such a program cannot be underestimated. There will be transitional problems of production and employment as some industries retract and change their technologies and others expand; national policies to facilitate the conversion and ease the burdens on particular industries and workers may be necessary.

The preservation of environmental quality, without lowering current and projected standards of improvement, presents difficult problems that can and must be overcome by willingness to meet the necessary expenditures for continued environmental protection.

To carry through the needed conversion without sacrificing protection and improvement of the natural environment will necessitate intelligent social planning and a readiness to cover the costs, through a combination of adjustments in energy prices, profits and taxes, and through governmental subsidies to protect the nation's air, water and earth.

IV. INTERNATIONAL COOPERATION

The President should offer the full cooperation of the United States to other countries in a major program of research and development for existing and new forms of energy. And this country should work with others in building up stocks of fuel that will enable it and its partners to withstand the threats, blackmail or embargoes of the members of the international oil cartel. Work in that direction has already begun through the Energy Coordinating Group nations of North America, Western Europe and Japan, but that work needs vast acceleration, with heads of state giving the task highest priority.

The United States and other major industrial countries which have been treated as a safe haven for the growing hoard of petrodollars could bring additional pressures on the oil-exporting countries by limiting their right to invest in these safe countries beyond the amounts needed to cover the deficits in balance of payments. Such action might persuade the cartel to see the necessity of reducing oil prices and restoring relative equilibrium to the world trading system.

American leadership could head off a mad and needless world economic catastrophe as fraught with danger to political stability and peace as was the Great Depression. The solution to both domestic and world inflation hinges on the international energy problem, as does the hope of avoiding a world depression and breakdown in trade and payments.

V. MR. FORD'S OPPORTUNITY

The nation now needs a short-term and long-term plan on energy. Here is the President's opportunity to enable the nation to regain control over its own destiny and to serve the interests of the entire world in the process.

If Mr. Ford will tell the nation the truth about the urgency and scope of the energy crisis and the necessity of meeting it with a full-scale conservation and development program, he will find Americans ready to respond as they have to other threats to their security and well-being. And if the United States takes the lead and proves it is ready to make the necessary sacrifices and expenditures of money and effort, other threatened oil-importing nations will almost surely join in.

It is impossible to know in advance precisely what will be required to drive down the price of oil and lessen Western dependence on the oil cartel, or how long it will take. Flexible tactics and strategy will be essential, depending on the fruits of research and development, the response of other oil-importing countries, and the countermoves of the international oil cartel.

If the United States and its partners succeed in breaking the cartel or bringing oil-producing states to their senses, with a consequent fall in the price of oil, the scale and rate of Western energy conservation and development would be affected but the need for such a program would not be eliminated. Indeed, the greatest argument for an all-out effort now is that it will not only help to prevent a worldwide economic and political disaster in the short run but that it is vital to world economic development in the long run.

The world economy must convert, within the next few decades, from dependence on the limited and disappearing supply of petroleum to other energy resources and technologies. Sensible conservation measures are crucial to bridge the transition. And it is essential to find practical ways to combine energy development with environmental protection, for the sake of human survival as well as the economic wellbeing of all people. There should be no further delay in this country's launching of an energy program capable of meeting both the immediate and long-range challenges.

THE PENNSYLVANIA GUBERNATORIAL ELECTION

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that two articles from the Philadelphia Inquirer be inserted at this point in the RECORD. They both attempt to show further developments of the Pennsylvania gubernatorial election. I think they warrant the attention of my colleagues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MR. SHAPP CAN COME CLEAN TODAY

In seeking to persuade Commonwealth Court to block a House of Representatives subpena for his income-tax records, Gov. Shapp argued Wednesday through his lawyer that the returns could cause the governor political damage if they became public before Nov. 5, election day.

That argument, on its face, says a great deal about Mr. Shapp's behavior for months now in regard to more than $2 million that ostensibly was spent on his 1970 election campaign.

We will await the Commonwealth Court's ruling on that issue—with the hope that it comes swiftly enough to avoid what might be an inevitable surmise that any unexplained delay would serve Mr. Shapp's political motives nicely.

But we believe the governor's strategy is a grossly misconceived one. For we do not believe a concert of shoulder-shrugging will wash with the voters of Pennsylvania in the age of Watergate, stonewalling and secret funds.

Only last Monday, Mr. Shapp's campaign manager, Robert Kane, said he had "no idea" when the governor would be able to explain what happened to more than $400,000 in funds raised some three and a half years ago. "When the information is complete," Mr. Kane said, "we'll release it to the public."

Mr. Kane was talking about funds that were gathered by an outfit called Pennsylvanians for Progress soon after Mr. Shapp was elected. That group still has not accounted for at least $242,000 in contributions and $415,000 in disbursements.

That is a great deal of money. It is implausible to us that the governor could be unaware of it; it is inconceivable that its contributors would long let him remain unaware.

Today, Mr. Shapp is scheduled to appear before the House committee whose subpena he is resisting. There are many questions to be answered—starting with the vast sums of money in the 1970 post-election kitty. Other important questions involve Mr. Shapp's intimate and personally lucrative involvement in the state's cable-television industry and its regulation. Another overdue explanation involves Mr. Shapp's long-time fund-raiser and recently fired state secretary of property and supplies—and why Mr. Shapp waited long after catching him lying about a money deal before firing him.

Those all are complex matters. But most of them go back three years and more. Assertions that more time is needed for explanations are simply incredible.

With 33 days to go before he faces the voters, Mr. Shapp today can either lay the full record before the House committee and the public—or he must be held to the presumption that he has a great and sinister deal to hide.

SHAPP TO RELEASE GOP MACING DATA

(By Paul Critchlow)

HARRISBURG.—On the eve of Gov. Milton J. Shapp's appearance before a legislative investigating committee, Shapp administration sources released documents Thursday that appear to show widespread and systematic macing of state employes under the former Republican administration.

The source said that the documents would be used today by the governor during his testimony before the Republican-controlled House committee that is investigating state contract practices.

Shapp was expected to be grilled extensively by Republican committee personnel about claims by dozens of state highway equipment lessors that they were forced to make kickbacks from their state earnings to the Democratic Party.

The Republicans are expected to attempt to show or imply that Shapp tolerated the alleged political extortion by highway department officials and that Shapp himself may be corrupt.

As part of the counterattack, sources said, Shapp will reveal files and documents showing that high-ranking officials in the Agriculture Department, the state Highway Department and the governor's office systematically asked hundreds of employes for contributions to an organization called the Pennsylvania Republican Club.

The documents show that the computerized fund-raising program was carried out by high department officials under former Gov. Raymond P. Shafer, a Republican, from 1967 to 1970.

"Gov. Shapp will stress that when he became governor, he found systematic and professional fund raising, which he in effect ended," said the source. "This contrasts with the fund-raising efforts by us, which have been done on an informal basis.

"The Republican Administration ran a campaign for contributions that is almost as professional as the way we conduct the United Way campaign," he said.

In one lengthy memorandum, dated April 13, 1967, between high-ranking officials of the Agriculture Department, a computerized campaign for soliciting and collecting contributions based on employe salaries is detailed.

The memo, from then department controller Raymond W. Reisner to then deputy secretary Jack R. Grey, assigned responsibility for soliciting and collecting contributions to bureau heads and district managers.

The memo contains a "suggested guide for contributions" and directed that "all employes should be contacted and a contribution or pledge made by June 23, 1967."

It also directed that no departmental stationery be used for the campaign.

"Suggested contributions" ranged from $250 for persons earning more than $20,000 to $10 for persons earning under $5,000.

The memo further stated that all bureau heads and supervisory personnel would be furnished with computerized lists of all employes, their salaries and whether they were patronage or civil service employes.

Other documents, labeled "departmental remittance sheets," contain lists of hundreds of employes and the donations they made in 1969. Many of the donations were listed as cash.

A tally sheet entitled "Pennsylvania Republican Club—Payroll," provided a breakdown of all contributions by state departments and showed that more than $287,000 was collected in 1968 for the "club."

THE FOOD CRISIS

Mr. HUMPHREY. Mr. President, on October 2 I had the pleasure of debating food and agricultural problems with Secretary of Agriculture Earl Butz at the National Town Meeting.

The discussion was vigorous, and it was clear that the Secretary and I disagree on what our agricultural policies should be. He continues to place total faith in the free market, and I feel that this is not being very realistic.

For the farmer, placing total faith in the free market is likely to put him at the mercy of powerful forces over which he has little influence. In my remarks at the National Town Meeting, I urged that the antitrust laws should be enforced to bring increased competition.

In the last few months, I have received many calls from farmers throughout the Nation. They are angry, and they are disturbed. The inputs they require—such as fertilizer, propane, fence posts, twine, machinery, labor, and financing—have all increased in cost and some by as much as 400 percent. Producers of these commodities are in a position to pass on increased costs; the farmer does not have this power.

Our consumers feel that farmers must be doing well financially because food prices have gone up. Actually, the prices received by farmers are, in many cases, no higher than they were 5 or 10 years ago.

Food and agricultural policies, and particularly for the United States, must now be developed with their global implications clearly in mind.

We cannot allow the exportation of huge chunks of our crops without considering the impact on our own domestic consumers. We need more careful monitoring of our exports if we are to restore some stability to our markets.

In a world where scarcity and hunger are becoming commonplace, we also need to do some serious thinking about what our role should be in providing food aid. It is clear that this topic has been given very low priority by this administration.

Mr. President, I call to the attention of my Senate colleagues my formal statement of October 2 at the National Town Meeting, the October 3 Washington Post article, "Town Meeting: Butzing Heads With Humphrey," and the October 3 Wall Street Journal article, "The Food Crisis: Widespread Shortages Could Stir Hostilities, Putting the 'Have Nots' Against 'Haves.'" I ask unanimous consent that these items be included at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HUBERT H. HUMPHREY

Our agricultural system is at a crossroads today. Its productive capacity has never been greater. But at the same time it faces continuing instability and the potential for economic disaster.

The American housewife long has taken for granted a wide variety of food at bargain prices. For the average American worker, less than sixteen per cent of his take-home pay has gone for food in recent years—a record unmatched anywhere in the world.

But times are different now. In 1972 world food production declined, and the Soviet Union made its massive purchases of 28 million tons of grains, 18 of which came from the United States. A chain reaction demand set in as other nations—and some of them our regular customers—scrambled to make purchases to meet their own needs.

The energy crisis dealt another serious blow to stable prices for food and the cost of producing it.

These events set in motion a series of world wide economic trends which increased the farmer's 1973 production costs by $12 billion above the previous year.

Our consumers, meanwhile, began paying far more for their groceries—$17.1 billion more in 1973 over 1972. For 1974, I envision a further increase of perhaps 20 to 25 billion dollars.

Despite increased food prices, many farmers have not received higher prices for their produce. While grain prices have risen sharply, our dairy, poultry and livestock producers have had trouble breaking even and staying in business.

Our livestock and dairy producers are in serious trouble. We had to pass emergency loan guarantee legislation to enable our livestock producers to stay in business. This was a stopgap measure.

With this year's reduced harvests, it is quite clear that feed costs will increase even further. The inevitable result will be further reductions in the numbers of poultry, hogs, and beef cattle.

In 1975, American consumers can expect reduced supplies and further cost increases in their milk, meat, and eggs.

And since poultry and livestock producers are the main users of grains, 1975 could bring reduced requirements and seriously depressed prices to grain producers. This would come as a result of a reduction in animal feed units.

The prices paid to our dairy farmers have gone down by about $2 per hundred pounds of milk—or 25 per cent—in the last six months. Meanwhile, the production costs for our dairy farmers are estimated to have gone up by 29 percent during the past year.

As examples of increased production costs, farm tractors have increased from around $11,000 to $15,000; diesel fuel has increased from 23 cents to 39 cents per gallon; bailer twine has gone from $7 to $8 per bale to $33 per bale. Nitrogen fertilizer has more than doubled in price in less than a year. And labor costs are estimated to have gone up by 15 percent.

These inputs not only have increased in cost, but they often have been unavailable at any price.

The prospect for farm inputs during the coming year is for continuing cost increases and tight supplies. As a typical case, our fertilizer inventory is all but gone, yet prices and demand will continue to increase.

Our farmers will need an adequate return to continue to produce. And we need to produce not only for our own people, but for our export market and humanitarian needs.

The Administration proposes that the government get off the back of the farmers so that we can rely on the free market to increase production.

But we do not really have a free market either at home or abroad. While the prices received by the farmer are subject to supply and demand, most of his inputs come under what is referred to as administered prices.

The only way a farmer can stay in business is for the prices of his products to remain strong and at least even with his ever advancing costs.

While we certainly need a high level of exports, in a tight supply situation we must monitor our export sales carefully and license exporters to make certain that our sup-

plies of food and fiber are not sold out from under us.

We cannot sell whatever a nation wishes to buy without first considering our domestic needs. And we also must be a reliable supplier to our regular export customers.

I have proposed legislation to raise the basic floor prices of wheat, feed grains, soybeans and cotton. In today's chaotic market, the government must share some of the risk with our farmers.

We also need a modest reserve program which is related to a sound export program in order to assure that we have adequate supplies of food and at reasonably stable prices.

In spite of recent monitoring steps taken by the Department of Agriculture and jawboning by the Secretary, we do not have a program adequate to meet the need.

In my view the Administration has not freed the farmer. It has thrown him to the wolves.

With experts pointing out that the world's weather may become even less favorable for agricultural production, the farmer is beset by uncertainty.

In today's highly capitalized agriculture, we must face the need to keep our farmers in production and help share in that risk.

To do otherwise is to invite continued boom and bust prices and further decreases in the numbers of farmers. If we do not act, the end result will be less food and at higher prices.

TOWN MEETING: BUTZING HEADS WITH HUMPHREY

(By Marian Burros)

Maybe the Secretary of Agriculture loves a good fight because he usually has the last word. But he finally met his match yesterday when he and Hubert Humphrey needled each other through an hour of debate in a National Town Meeting at the Kennedy Center. The fact of the matter is, few people can outtalk the junior senator from Minnesota.

Often such spirited debates give off a lot of heat, but little light. In this instance, though neither protagonist budged from his position, the audience at the Kennedy Center had an opportunity to hear opposing points of views on the American food supply.

The hour-long program, second in the fall series of Town Meetings to be taped by public television, will air Sunday afternoon at 4:30 on Channel 26 (WETA).

Both men, born on farms, have two basic areas of agreement: Farmers should receive a fair and steady return on their investment; farmers get too little for what they produce while consumers pay too much.

Butz believes in a totally free market. He equates export limitation on American foodstuff with Arab "cartels and cutbacks" of oil. He says that government-held reserves of farm commodities will depress farm prices.

Humphrey said that controls, monitoring of exports and government reserves are essential to prevent a repeat of the 1972 situation when the Russians bought such tremendous quantities of American wheat that the total market was disrupted.

When Butz reminded Humphrey that the Agriculture Department is monitoring exports on a daily basis, Humphrey smiled sweetly, then said: "That's only because I put a blowtorch to you."

While Republican Butz and Democrat Humphrey both believe that the middleman is getting too large a share of the food dollar, each has a different idea on how to reduce this amount. Butz would like to institute a series of marketing reforms which he claims would reduce the retail price of beef by 5 cents a pound.

Humphrey wants the Federal Trade Commission and the Department of Justice to investigate anticompetitive practices in the food industry which he says drives up prices.

Butz pulled his now-famous "bread act" to show that the farmer gets only the equivalent of 4 slices of a loaf while the middleman gets 16 slices. Then he turned to Humphrey and said: "Here's the heel for you, senator."

Not to be outdone, Humphrey shot back: "It takes one to know one."

The debaters so warmed to their subject that the town-meeting format was all but lost. Gladywn Hill of The New York Times and Alan McConagha of The Minneapolis Tribune, as members of the panel, along with the audience (made up mostly of students from T. C. Williams High School) were supposed to ask questions but they had little opportunity to get in a word. It was moderator Harrison Salisbury who had his work cut out for him.

THE FOOD CRISIS—WIDESPREAD SHORTAGES MAY PIT "HAVE NOTS" AGAINST THE "HAVES"

(By Mary Bralove)

If Gerry Connolly and friends request the pleasure of your company for lunch some time soon, you might think twice before accepting. The affair could well turn nasty before it's over.

As associate executive director of the American Freedom from Hunger Foundation, Mr. Connolly with his colleagues frequently gives banquets that dramatize the current world food crisis. At such affairs, they wait for the ripe moment when stomachs are growling and heads ache from hunger before serving any food. Then one-third of the guests sit down to juicy prime ribs, steaming baked potatoes and all the trimmings. The other guests are served a mound of rice and tea.

"The hostility of those two-thirds eating rice and drinking tea is really something," Mr. Connolly says. "For some people it ceases to be a game."

That's his intention, of course. For a few hours, at least, those people invited to Mr. Connolly's "Hunger Banquet" acquire a visceral bond with the undernourished two-thirds of the world and a glimmer of understanding of what it might be like to be one of the tens of millions whose existence is threatened by food shortages.

To most Americans, hunger is an occasional pang of a delayed meal or a skipped breakfast. But for an estimated 700 million people, hunger is commonplace and the prospect of an agonizing death by starvation a grim fact of life. They live in India, Bangladesh, Pakistan and parts of Latin and Central America. Many live in the drought-stricken regions of Africa. Others live in the overpopulated small countries of Asia. Half of them are children.

THE ANGER OF THE HUNGRY

These people are angry that they must eat scraps of cereals and grains left over after the affluent nations of the world feed their cattle and poultry. They're angry at rich countries that gladly give away food when grainaries are overflowing but in times of shrinking supplies are tightfisted.

Such anger fuels revolutions and forges new political alliances. Increasingly, observers of the world food situation fear that those nations with plenty will someday be confronted in a fight by those with little and that the kind of hostilities that emerge at Mr. Connolly's Hunger Banquet could be enlarged to global proportions.

"The rich world is on a direct collision course with the poor of the world," says Georg Borgstrom, professor of food science and nutrition at Michigan State University. "The world at large (could be faced with) riots, famines and pestilence. We don't live in a protected oasis. We can't survive behind our Maginot Line of missiles and bombs."

To those who have heard all their lives that people in China or Armenia or some place else were starving, such dire predictions may seem overdrawn and unnecessarily alarmist. Throughout history there have been famines, such as the Irish potato blight of 1846, and accompanying doomsday prophets; each time, the world recovered somehow. Today, however, agricultural, nutritional and economic experts agree that the current world food situation is substantially more ominous than ever before.

"History records more acute shortages in individual countries, but it is doubtful whether such a critical food situation has ever been so world-wide," a recent U.S. State Department report asserts.

THE CAUSE OF THE PROBLEM

Several individually important factors have combined to create this critical problem, which will be thrashed out at the United Nations World Food Conference Nov. 5–16 in Rome. Foremost among them is the world's staggering population growth. Each week, the number of additional people to be fed burgeons by 1.4 million. This growth generates an unprecedented demand for food, which in turn increases demand for fertilizer, fuel and other agricultural inputs. Developing countries are hampered in producing more food by poor irrigation and backward agricultural methods and are constrained in importing more food by the lack of adequate capital. As if that weren't enough, recent agricultural gains in many countries have been wiped out by floods, droughts and typhoons.

In the past 40 years of plenty, North American food reserves have acted as a buffer against local famines. There was always food available in the U.S. and Canada to be purchased or given away to those in need. In the last two years, those reserves have been depleted as world-wide demand for food has increased. In 1961, the world stockpile of grain amounted to a 95-day supply. Currently, it is less than 26 days.

In the U.S., the problem of feeding the world's hungry while keeping food prices at home low has touched off a heated controversy. Some, such as Sen. Hubert Humphrey, argue for increased food aid and establishing a program of food reserves. Others, such as Secretary of Agriculture Earl Butz, argue against increased foreign food aid and urge the transfer of technology and American know-how to underdeveloped countries, along with appropriate capital incentives. Still others argue for a redistribution of food that would require a radical change in the diets of people living in affluent nations.

"We are going to have to come to terms with this common interdependence," says Lester Brown, senior fellow of the Overseas Development Council, a think tank based in Washington, D.C. "We're now in the situation that if some of us (in the world) eat more, others are going to eat less."

Mr. Brown and others note that the U.S. and a growing number of other nations, notably Japan and the Northern European countries, are heavy eaters of grain-fed beef and poultry. As a result of this taste for meat, grain surpluses that once were diverted to poor nations now are sold to rich countries to feed their livestock. Prof. Borgstrom estimates that the livestock population of the U.S., for example, consumes enough food material to feed 1.3 billion people. If Americans were to switch to a diet resembling that of present-day China, the U.S. could feed some 800 million to a billion people, he figures. The average North American currently uses up to five times as much agricultural resources as the average resident of India, Nigeria or Colombia.

A TRADITION OF EATING MEAT

Nonetheless, Americans accustomed to steaks and hamburgers aren't likely to throw it all over for rice and corn. Nutritionists and sociologists point out that diet is a matter of habit, custom and prestige. These aren't easily changed.

"America's massive consumption of dairy produce and meat is really a gesture rather than a natural taste preference," explains Alexander Comfort, an associate of the Center for the Study of Democratic Institutions in Santa Barbara, Calif. "We had a pioneer society based on a hearty reward for a hearty effort. Society has changed. We aren't all cowboys now, but eating meat is still part of our self-image and tradition."

On the other hand, tradition may give way under economic pressure. Meat may become too expensive for all but the very rich of the world to afford. "We will not (cut down on our meat consumption) by shaming people into it," asserts Lowell Hardin, program officer of the international division of the Ford Foundation. "We'll change because of economics. We're likely to ration food by prices. Grains will be too high-priced for animals to consume them."

If that happens and Americans are forced to eat grains directly, what happens to the people of, say, Zaire, who already lunch on fried patties of mashed beans and corn meal? The appalling truth, experts say, is that unless drastic and immediate steps are taken to increase food supplies, the world will face massive international starvation.

This is difficult to comprehend, and some food experts such as Lester Brown believe that even now agricultural economists haven't come to grips with it. "In 1970, not one in 100 economists anticipated that by 1974 the U.S. would plant all its farmland and having done so, we'd still be hanging on by our fingernails," says Mr. Brown, who admirers have called a one-man early-warning system and who critics dismiss as an alarmist. "Those of us who are food economists have failed to anticipate every major trend and direction."

MANY FAST CHANGES

Looking back, though, it's difficult to imagine how anyone could have foreseen the rapidity with which the world food situation changed. In August 1971, the U.S. in effect devalued the dollar, making U.S. agricultural products attractively priced in the world market. A year later, demand for American food intensified still further as world food production suffered climatic setbacks in a number of countries. Drought and typhoons slashed rice and corn crops in the Philippines while a severe drought continued over parts of West Africa. India's monsoon dropped below normal, cutting its cereal crop and eroding hopes of near-term self-sufficiency. In the U.S., corn and soybean harvests were stalled by wet weather in the fall of 1972. Finally, inadequate rains cut the grain crops in the Soviet Union, Argentina and Australia.

Traditionally, when the Russians came up short on production they steeled themselves to getting along on less by killing their livestock and eating their grains directly. But in 1972, instead of tightening their belts they made massive grain purchases on the world market.

The Soviet purchase of nearly one-fifth the total U.S. wheat supply in the face of world grain shortages sent commodity prices soaring. The result was that "the poor nations pay more for less and the rich eat what they will," wrote Quentin West, administrator of the U.S. Agriculture Department's economic-research services.

Although weather conditions in 1973 generally improved, demand for food for the world's swelling population continued to mount. To most Americans, high commodity costs meant higher supermarket prices. But for those people in the cities of South Asia who already spend 80% of their income for food, the global bidding for American food brought the specter of massive hunger.

EFFECT OF ARAB OIL POLICY

By the fall of 1973 the problem of feeding the world's hungry reached crisis proportions. Arab nations intent on influencing foreign policy of industralized nations decreed an oil embargo. By restricting petroleum supplies they dashed hopes for any immediate increase in world food production. Farmers need gasoline to run their tractors, and they need diesel fuel to operate their irrigation pumps. Most important of all to farmers in such nations as India and the Philippines that grow nutrient-hungry, high-yield wheat and rice, they need fertilizer. And petroleum is the basic element in manufacturing fertilizer.

Today, fuel and fertilizer supplies are still tight. Fertilizer prices are double and triple what they were two years ago, and developing countries' food production is backsliding. In India, fertilizer shortages are expected to reduce grain production by some 10 million tons. This is a staggering setback in a country that requires an annual increase of 2.5 million tons of grain just to keep pace with its population growth.

"Asia is probably much more dependent on the Middle East now than it ever was on North America for its food supply," Ralph W. Cummings Jr., agricultural economist with the Rockefeller Foundation, wrote in a recent report.

At the same time, developing countries are blocked from importing vitally needed agricultural products by their precarious economic positions. "Most countries with the severest food problems have the severest balance-of-payments problems," notes Sol Chafkin, officer in charge of social development for the Ford Foundation. "They are under constant pressure to hold down imports or to increase exports."

CUTTING BACK ON AID

Industrialized nations also have balance-of-payments problems. They need most of their food surpluses to pay for their oil imports. Last year, for example, U.S. agricultural exports increased to $18 billion, nearly double the amount exported in 1972. But the quantities of cereal allocated to its Food for Peace program dropped to the lowest level since the start of the aid plan in 1954.

"It is possible to conclude that people who are on the brink (of famine) may die or be damaged as a result of what is happening to financial positions of their countries as surely as a natural calamity or a war," Mr. Chafkin says.

While economic and food experts are able to pinpoint the causes of the current crisis, no one can see any clear solutions. One proposed scheme set forth by the UN's Food and Agriculture Organization urges a "food security program" in which all nations contribute to a global grain reserve. Such a scheme not only assumes that the present depletion of stocks can be overcome—which, because of the complex array of causes, is uncertain—but also would depend on a nearly unprecedented degree of international cooperation.

"The answers aren't easy—they're going to be long-term and tortuous," says Mr. Connolly of the American Freedom from Hunger Foundation. He, like many other nongovernmental people, favors an immediate increase of American food aid.

Of course, it would be very helpful to curb population growth—a growth that adds the equivalent of the U.S. population to the world every 30 months. But birth-control efforts are stymied by political, moral and economic considerations, not to mention the psychological and emotional difficulties caused by malnourished youngsters dying prolifically.

EXPORTING KNOW-HOW

"It's awfully hard to persuade people to have fewer children when they're afraid the ones they have will die," says Bernard Berelson, president of the Population Council.

Along with efforts to curb population, experts say that developed countries should transfer their know-how and technology to underdeveloped nations. But efforts in this direction have had mixed results. American agricultural methods are highly mechanized and use a great deal of fuel and other energy. Exporting Western technology often carries with it higher unemployment and a deeper reliance on high-priced fuel and fertilizer. Some observers fear that modern technology may also wreak ecological havoc. In Egypt, for instance, the Aswan Dam prevents the annual flooding of the Nile and the replenishment of soil deposits. As a result, Egyptian soil is rapidly losing its fertility.

Yet some experts, such as John Hannah, deputy secretary-general for the World Food Conference, are hopeful that nations can solve some of these problems by acting together. Mr. Hannah notes for example, that natural gas burned and discharged into the atmosphere in the Middle East oil fields could, if harnessed, produce much-needed fertilizer. Still other experts, such as the Ford Foundation's Mr. Hardin, think that the techniques required to increase production are already within reach.

"Technically, the world could produce the calories for a reasonably adequate diet for 20 to 30 years in the future," he says. "Whether we do it depends on how big a priority governments give the agricultural sector."

If the experts are right, the world's hungry won't be patient much longer.

SUBCOMMITTEE ON FOUNDATIONS

Mr. HARTKE. Mr. President, I ask unanimous consent that a statement of the Senate Subcommittee on Foundations be printed in the RECORD following my remarks.

The conclusions and recommendations contained in this statement are my own and are concurred in by the other individual members of the subcommittee to the extent indicated therein.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF THE SENATE SUBCOMMITTEE ON FOUNDATIONS TOGETHER WITH ADDITIONAL VIEWS

(VANCE HARTKE, Chairman, Oct. 1, 1974)

Beginning in October of 1973, the Senate Finance Subcommittee on Foundations took both written and oral testimony on the impact of the Tax Reform Act of 1969 on private foundations and recipients of foundation grants. The Subcommittee gave special attention to the subjects of the four percent excise tax and the minimum distribution requirements of the Internal Revenue Code. It is to these two subjects which this statement is addressed.

A. FOUR PERCENT EXCISE TAX ON PRIVATE FOUNDATIONS

1. Legislative history

The Tax Reform Act of 1969 (Public Law 91-172) included several provisions which established a special status for private foundations in comparison with other charitable organizations. The imposition of a four percent excise tax on net investment was a requirement imposed on private foundations only.[1]

The Tax Reform Act of 1969 defined "private foundation" by exclusion rather than inclusion.[2] In essence, it excluded various classes of charitable organizations from private foundation status, in most cases because of the relative amount of financial support which such organizations derive from the public. The apparent theory is that organizations which derive much of their support from the public are likely to be responsive to the public, while private foundations—which derive most of their financial support from a limited number of donors—are less likely to be responsive to the public will and, thus, more in need of public super-

Footnotes at end of article.

vision. This contention has been opened to question in articles which have appeared within the past few months in major newspapers and periodicals and in hearings held by the Senate Subcommittee on Children and Youth.

Historically, private foundations in the United States have been treated as charitable organizations and have been free from Federal taxation. In 1964, the Treasury Department conducted a comprehensive review of private foundations and the laws then applicable to them. In early 1965, Treasury reported to the Senate Finance Committee and to the House Ways and Means Committee that the Federal tax laws governing foundations should be revised.[3] While the legislative recommendations of this report became the basis for most of the Tax Reform Act of 1969's regulatory provisions for private foundations, the Treasury Department did not recommend imposition of any tax on foundation investment income.

Similarly, when the Treasury Department presented its recommendations on private foundation law in the 1969 tax reform hearings of the House Ways and Means Committee, it proposed no such tax.[4] On May 27, 1969, the Ways and Means Committee issued a press release announcing its tentative decisions with respect to private foundations. Included in those tentative decisions was one that the net investment income of private foundations be subject to an income tax of five percent. Later, when the Committee ordered its tax reform bill reported to the House, it elevated the rate of this tax to 7.5 percent.[5]

The record of the hearings before the Ways and Means Committee indicates the central importance of foundations in the tax reform bill. The hearings reflect the significant attention paid by Ways and Means to several foundation practices which the Members believed were abuses not adequately covered by existing Federal law. One of the reasons cited by the Committee in support of the imposition of a tax on investment income was the contemplation of increased enforcement efforts by the Internal Revenue Service in the exempt organization field and the belief that these costs should be underwritten by private foundations, rather than by taxpayers generally. Second, the Committee suggested that it would be appropriate for private foundations to bear a portion of the general costs of government.[6]

The House passed the "Tax Reform Act of 1969" in August, 1969, with the provision for a 7.5 percent income tax on foundations intact. An exchange between Representative Edward I. Koch of New York and Chairman Wilbur D. Mills of the Ways and Means Committee expounded on the Committee's rationale for the 7.5 percent tax.[7] Chairman Mills explained that money donated to foundations is usually not spent right away. In addition, foundations often receive stocks from their creator. If they were treated as taxable corporations, they would pay an income tax, and their stockholders would pay a tax on dividends received. In the case of foundations, however, this second level of taxation is non-existent since the dividends received from corporate stocks held by the foundation are tax exempt.

Chairman Mills also explained the justification for the 7.5 percent rate of taxation proposed in the bill:

"In the case of a corporation you get a deduction of 85 percent of the total amount of dividends received. This leaves 15 percent subject to the tax, and at a 50 percent rate the tax amounts to 7½ percent. . . . We did not want to tax the foundations to pay more than that."[8]

Footnotes at end of article.

In the fall of 1969, the Treasury Department presented testimony to the Senate Finance Committee, which was then beginning its consideration of the Tax Reform Bill as passed by the House. The Treasury testimony recommended a reduction in the rate of the tax on foundation investment income from 7.5 percent to 2 percent.[9] The Treasury Department based its recommendation upon the argument that other provisions of the Tax Reform Bill would eliminate the abuses thought to be prevalent in the private foundation community and that, once these abuses were corrected, it would not be appropriate to limit the funds available for charitable activities by imposing a tax greater than an amount which would be sufficient to offset the enforcement efforts undertaken by the Service under the regulatory provisions of the bill.

In response to the Treasury testimony and that of other interested parties, that Finance Committee modified the tax in several respects. First, consistent with Treasury's recommendation, the committee rejected the view that the tax should be imposed at a rate which would produce revenue beyond that needed to fund IRS enforcement efforts. Second, the Committee was concerned that the form of the tax adopted by the House would lead some to believe that foundations were no longer tax exempt.

To alleviate these concerns, the Committee cast the tax as an excise tax, rather than as an income tax, and measured the tax by a percentage of the value of a private foundation's investment assets.[10]

As reported to the full Senate, the Finance Committee bill provided for an audit fee equal to one-fifth of one percent of the fair market value of foundation assets.[11] On the Senate floor, the rate of tax was reduced from one-fifth of one percent to one-tenth of one percent of the value of foundation assets.[12] As so reduced, it was anticipated that the tax would produce approximately the same amount as would be produced by a tax equal to two percent of investment income.

During the House-Senate conference on the tax reform legislation, the conflicting views of the two Houses were resolved by a compromise. The rate of the tax was set at four percent. In addition, responding to Treasury's objection to measuring the amount of the tax by reference to the value of foundation assets, the conference agreed to cast the tax as an excise tax on net investment income.[13]

2. Revenues from the 4-percent excise tax

In practice, the tax imposed at a rate of 4 percent of net investment income has produced more than twice the amount expended by the Internal Revenue Service with respect to its compliance activities for all tax exempt organizations—including such organizations as social clubs, trade associations, mutual ditch companies, labor organizations, and other non-charitable groups.

The revenue yield of the tax and Internal Revenue Service costs for all years since the effective date of the tax are as follows: [14] [15]

Fiscal year	Revenue from 4 percent tax	IRS costs (millions) Foundations	IRS costs (millions) All exempt organizations
1968		$1.6	$7.1
1969		2.1	7.5
1970		3.5	11.0
1971	[1] $24,589,000	8.6	15.4
1972	56,045,000	12.9	19.3
1973	76,617,000	12.3	18.6
1974	NA	12.2	21.1

[1] Because of the interrelationship of the effective date of the tax and return-filing dates for private foundations, this figure includes only a part of the revenue yield of the tax for its 1st full year of operation. It does not include taxes paid by foundations reporting their income on the basis of fiscal years ending Feb. 28, 1971, through Dec. 31, 1971. A number of the largest foundations were in this group.

3. IRS compliance activities for all tax-exempt organizations [16]

Several functions within the Internal Revenue Service are involved with tax exempt organizations. The Assistant Commissioner (Compliance) has responsibility for the audit portion of the Service's exempt organization program. The Exempt Organizations Examination Branch within the Audit Division plans, monitors, and evaluates nationwide programs for the examination of exempt organization returns and records.

Within each of the Service's seven regional offices, there is an exempt organization program manager who monitors the exempt organization program of the key districts within the particular region. Actual field operations are carried out by the Office of International Operations and sixteen key districts located throughout the country.[17] Within the audit divisions of these key districts there are exempt organization groups which process applications for recognition of exemption and conduct examinations of exempt organizations.

The current audit program has private foundations audited on a five-year cycle, with the largest, most complex ones examined every two years. Other exempt organizations are audited on a scale which is designed to provide representative coverage.

The Assistant Commissioner (Technical) is primarily responsible for providing basic principles and rules for the uniform interpretation and application of the Federal tax laws administered by the Service. The Miscellaneous and Special Provisions Tax Division, through its Exempt Organizations Branch, carries out this function in the area of exempt organizations. The Branch's activities include providing rulings to taxpayers, furnishing technical advice to IRS district offices, reviewing regulations, preparing Revenue Rulings and Procedures, and conducting in-depth studies of difficult technical issues. Also in the Technical arm of IRS, the Tax Forms and Publications Division works with the Exempt Organizations Branch in developing explanatory publications, forms, form letters, and other materials for the use and guidance of Service personnel and the public.

The Assistant Commissioner (Accounts, Collection, and Taxpayer Service) has responsibility for the computer processes necessary to administer the exempt organization program and for the collection of delinquent returns and accounts due by exempt organizations.

For the fiscal year 1974, budgeted figures for the exempt organization program within IRS were as follows:

	Audit	Technical	ACTS	Totals
Man-years	845	160	206	1,211
Man-hours	1,757,600	332,000	428,480	2,518,080
Amount	$15,198,000	$3,100,000	$2,849,000	$21,147,000

By December 31, 1974, the Service plans to have audited substantially all private foundations at least once during the previous five-year period. Audit coverage of other exempt organizations is not done on the basis of 100 percent coverage. Through a classification system, the Service selects the returns of organizations whose affairs most need to be examined. Areas which show patterns of non-compliance are stressed.

The Service's private foundation audit actively for fiscal year 1974 involves approximately 1,123,000 man-hours with a budgeted amount of $9,711,522. These figures represent 63.9 percent of the total exempt organization examination program.

4. Impact of 4-percent excise tax on private foundations

Considerable testimony has been presented to the Subcommittee on the impact of the 4 percent excise tax on private foundations. The thrust of most of this testimony is that the money raised by this tax is money denied, not to the private foundation, but to the charitable recipient of the foundation's money.

Of course, any tax imposed is subject to a similar argument. A tax imposed on a business often means the consumer must pay higher prices for the products produced or sold by that business, and a tax imposed on an individual only means that the individual has less to spend on products, thus inhibiting the creation of new jobs and the expansion of the economy. No government can exist without adequate revenues, so taxes are imposed to raise those revenues which are necessary to operate the government and its programs.

Having said this, it is important to weigh the merits of the 4 percent tax in light of its impact on both private foundations and the recipients of foundation money, as well as on the desirability of maintaining private foundations as part of the non-governmental charitable family of organizations which exists in the United States.

Private foundations have been a part of American society since colonial days. Although once confined to aiding the poor and the destitute, they have expanded their horizons to include almost every conceivable interest and concern of the American people. There are those who would contend that some of the money held by private foundations has been squandered on useless activities, but the fact remains that "useless" is a highly subjective term. History is replete with examples of ideas which appeared to be without substance or merit when first propounded, but which later came to receive broad public acceptance.

This is the very strength of private foundations. They have significant resources (although their grants in 1972 amounted to only ten percent of all private giving and only 2,000 of the 28,000 private foundations hold assets of one million dollars or more) to fund activities which are innovative. In our pluralistic society, we should never depend on government alone to support research and innovation. Foundations offer an alternative to that dependence, and—as such—they should be welcomed and encouraged.

The debate leading to passage of the Tax Reform Act of 1969 made it clear that some foundations were far more self serving than innovative. These were foundations which hoarded their money rather than spending it for charitable purposes, or foundations which used their money for the selfish, profit-seeking motives of donors.

The Tax Reform Act of 1969 changed the climate within private foundations. It is significant that the Subcommittee on Foundations has received a mere handful of comments suggesting abuses on the part of foundations. On the other hand, the Subcommittee has received a significant amount of testimony indicating the adverse impact which the 4 percent excise tax has had both on foundations and the recipients of foundation grants.

In October of 1973, the Subcommittee of Foundations held two days of hearings, receiving testimony from a variety of persons with specialized knowledge of foundations and foundation law, and from representatives of a number of private foundations. Much of this testimony stated support for reduction of the tax on foundation investment income from its present 4 percent rate to a rate appropriate to produce the amount of revenue necessary to finance Internal Revenue Service enforcement activities concerned with exempt organizations.[18] Testimony to the same effect was presented to the House Ways and Means Committee in the course of that Committee's hearings on general tax reform in April, 1973, and to the Subcommittee on Domestic Finance of the House Banking and Currency Committee.[19]

Additional hearings were held by the Subcommittee on Foundations in May and June of 1974. At the May, 1974, hearing, Senator Dewey Bartlett of Oklahoma presented testimony outlining the reasons the rate of tax should be reduced to bring the revenues produced by the tax more into line with the IRS enforcement costs. At the June 1974, hearings, Internal Revenue Service Commissioner Alexander presented a letter from the Secretary of the Treasury stating the Treasury Department's support for a reduction in the rate of tax from 4 to 2 percent, thus conforming the tax to that recommended to the Finance Committee by the Treasury Department in 1969.

5. Treasury Department position on the 4-percent excise tax

The Treasury Department's support for a reduction in the level of the excise tax from 4 to 2 percent was contained in a letter from Treasury Secretary William E. Simon to Subcommittee on Foundations Chairman, Senator Vance Hartke, dated June 3, 1974. That letter stated:

THE SECRETARY OF THE TREASURY,
Washington, June 3, 1974.

Hon. VANCE HARTKE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HARTKE: For the record of the hearing on private foundation matters, we submit the following statement of the position of the Treasury Department regarding the 4 percent tax on private foundation investment income.

The tax on private foundation investment income was enacted as part of the private foundation provisions of the Tax Reform Act of 1969. The House bill provided for a 7½ percent tax. The 7½ percent figure was justified by some as equal in amount (though unrelated in logic) to the net tax on intercorporate dividends. The legislative history indicates that the supporters of the 7½ percent tax looked upon it not as an audit fee but rather as a species of minimum tax. It was intended by them to generate tax revenue from private foundations.

The Treasury Department recommended to the Senate Finance Committee that in lieu of such a revenue-raising levy, a supervision tax be imposed to offset the cost of administering the audit program for foundations. We estimated that 2 percent of net investment income would be sufficient for that purpose. The Senate bill contained a tax based on the value of foundation assets (as distinguished from income) calculated to raise approximately half as much revenue as the House bill's 7½ percent tax. The Conference Committee compromised the divergent House and Senate positions by adopting the present 4 percent tax on income, which was expected to raise revenue roughly equivalent to the Senate bill.

While we have collection data for only a limited period, the available data indicate that the revenues raised by the 4 percent tax greatly exceed the cost of auditing private foundations. The cost of administering the tax provisions relating to all exempt organizations is about $21 million with the larger part allocable to the program for private foundations. Collections from the 4 percent tax on private foundation investment income totaled about $24.6 million in fiscal year 1971, $56 million in fiscal year 1972, and $76.6 million in fiscal year 1973. There is reason to believe that the $76.6 million is abnormally high, including a large amount of non-recurring capital gain. Further, there is some reason to expect that private foundations will contract in the aggregate with a resulting tendency for total revenues to diminish. These data suggest that a 2 percent tax might be an appropriate amount to defray the cost of the private foundation audit program, and we would support a measure to reduce the tax from 4 percent to 2 percent.

Sincerely yours,

(Signed) WILLIAM E. SIMON.

That position was fortified by Assistant Secretary of the Treasury (Tax Policy) Frederic W. Hickman in written materials provided to the Subcommittee on Foundations on July 16, 1974.[20]

6. Conclusions and recommendations

Based upon the legislative history of the excise tax on private foundations, its impact on foundations and on charitable recipients, and upon the Treasury Department's recommendations, the level of the excise tax should be reduced from 4 to 2 percent. This reduction would produce revenues of approximately twice the amount expended annually by IRS in recent years for its compliance activities.[21] It would also produce a direct, dollar-for-dollar increase in the funds distributed annually by private foundations for charitable purposes. For each dollar the tax is decreased, there would be a corresponding dollar increase in the flow of funds from private foundations to the support of charitable activities. This result follows by reason of the operation of section 4942 of the Internal Revenue Code, also added by the Tax Reform Act of 1969. Section 4942 imposes penalty taxes on those foundations which fail to make annual qualifying distributions for charitable purposes in the amount and at the time prescribed by the statute. The amount which a private foundation is otherwise required to distribute for charitable purposes under section 4942 is reduced by the amount of, the excise tax which is imposed on the private foundation by section 4940.

The effect of these statutory provisions is such that the tax is paid entirely with funds which would otherwise flow currently to the support of medical research, scholarship programs, and other charitable operations. Consequently, it is the potential recipients of foundation support, rather than the foundations themselves, which bear the real burden of the excise tax.

For example, if a private foundation is required by section 4942 to distribute $500,000 for charitable purposes, and if its tax liability under section 4940 is $20,000, the amount which section 4942 requires the private foundation to distribute for charitable purposes is reduced to $480,000. If the rate of tax were reduced from 4 to 2 percent, the foundation's tax liability under section 4940 would be $10,000 and it would be required to distribute $490,000 for charitable purposes in order to avoid liability under section 4942.

A recent study concluded that data from 1970 information returns filed by private foundations indicate that the 4 percent excise tax has a greater potential impact on the grants of larger foundations than of smaller ones. The tax was the equivalent of 1.2 percent of payout for foundations with less than $200,000 in assets, 1.5 percent of payout for foundations with $200,000 to $1 million, 1.8 percent for those with $1 million to $10 million, and 3.3 percent for those with $10 million or more in assets.[22]

The Employee Retirement Income Security Act of 1974 (Public Law 93-406) created an Assistant Commissioner for Employee Benefit Plans and Exempt Organizations, thus centralizing the myriad functions of the Internal Revenue Service pertaining to those organizations within one office. It also authorized for this office, in addition to other monies appropriated, revenues received from 2 percent of the 4 percent excise tax. A reduction in the excise tax from 4 percent to 2 percent of net investment income would mean that all revenues derived from that

Footnotes at end of article.

tax would go for the purpose of paying the costs of IRS administration of exempt organizations, which was the position adopted by both the Senate Finance Committee and the full Senate in 1969.

What is most important, however, is the use to which the revenues from the excise tax will be put by the Internal Revenue Service. Two points are worth considering: what impact will the pension reform law have on IRS activities concerning exempt organizations, and what should the IRS be doing with regard to exempt organizations which it is not presently doing.

With regard to the first point, IRS Commissioner Alexander has stated. "We do not expect major changes in our activities of enforcing the exempt organizations provisions of the Internal Revenue Code."[23] Clearly, it is the intent of the new pension law provision to establish an Assistant Commissioner for Exempt Organizations that the attention paid to exempt organizations be upgraded and that the Service give more consideration to the basic policy objectives involved with tax exempt status.[24]

There is no doubt that the Internal Revenue Service is primarily a revenue-collecting agency, and that one of the measures of its effectiveness as a whole is the amount of money which it collects. The result in the exempt organization field is that neither Congress nor the public can assess the amount of public benefit derived from the tax exempt status accorded foundations and other organizations.

The extent of this failure on the part of IRS to keep certain basic policy issues in mind was highlighted during the June, 1974, hearings of the Subcommittee on Foundations. Commissioner Alexander was unable to respond to several basic questions which had been submitted to him more than 60 days in advance because the Service simply did not put information pertaining to those subjects into its computers. It must be emphasized that much of this information is being received by IRS on forms filed annually by foundations; it simply is not being analyzed.

Following is a list of information which the Subcommittee on Foundation believes IRS should be collecting, analyzing and making available to the public:

1. The number of private foundations which have come into or gone out of existence since 1969, and the number of organizations which have changed their status to or from private foundation status since 1969.

Comment: This information is necessary to assess the impact which the Tax Reform Act of 1969 has had on private foundations.

2. The number of Section 501(c)(3) organizations now registered with IRS which are classified as "public charities" under each of the clauses (i) through (v) of Section 170 (b)(1)(A).

3. The number of these organizations which are "publicly supported" under clause (vi) of Section 170(b)(1)(A).

4. The number of Section 509(a)(2) organizations.

5. The number of Section 509(a)(3) organizations and a breakdown as to how many of these are operating and non-operating foundations as well as the asset value of these organizations.

6. The relationship of Section 509(a)(3) organizations to public charities and to Section 509(a)(2) organizations.

Comment: The information elicited from points 2, 3, 4, 5 and 6 is necessary for Congress to determine whether the basic policy objectives of the foundation provisions of the Tax Reform Act of 1969 are being met. It is essential to evaluate whether the exemptions from private foundation status allowed to certain organizations has had a meritorious effect or has simply created loopholes by which the intent of Congress can be avoided.

7. The impact which the minimum distribution requirements of Section 4942 has had on the amount of money going from private foundations to charitable recipients.

Comment: Section 4942 goes to the heart of congressional concerns about the needless accumulation of wealth by private foundations. By setting a minimum percentage of investment assets which a foundation must distribute to charitable recipients, Congress sought to assure that a reasonable amount of foundation income was paid out rather than held in foundation coffers.

8. A detailed analysis of the penalty taxes collected from private foundations under provisions of the Internal Revenue Code.

Comment: This information is needed to assess the degree of compliance on the part of foundations with the Tax Reform Act of 1969. For instance, some are "first-level" taxes which are assessed when a foundation violates a statutory provision, while "second-level" taxes are levied after a foundation has been told that it is in violation and has nevertheless failed to correct the abuse.

9. The fair market value of foundation assets.

Comment: This is essential information to determine the total impact which foundations can have on our society and to measure the adequacy of the charitable distributions of foundations.

10. Miscellaneous.

Comment: During the past year, the Subcommittee on Foundations has suggested that IRS place into its computers several line items from Form 990–PF, which is filed annually by all private foundations. IRS has estimated the first year cost for this additional information at $50,000 and the annual cost thereafter at $10,000.[25] The information concerned includes:

DESCRIPTION, REFERENCE AND COMMENTS

(1) Adjusted Net Income (before deductions); Part 1, line 13(C); Gives a better picture of current yield on foundation investments; (after deductions); line 25(C); Provides comparison with minimum investment return.

(2) Net Capital Gain; Part I, line 8 (B); Would provide some measure of how much capital gains are responsible for 4% tax yield, and some measure of 4942 and 4943 effects.

(3) Contributions, etc. Paid; Part I, line 23 (D) or line 23 (A); Excludes administrative expenses attributable to exempt purposes. Actually measures amounts paid to recipient organizations. The difference between this item and line 24(D) is the only way to obtain a figure for administrative expenses allocable to program.

(4) Minimum Investment Return; Part IX, line 6 or line 7; Valuable comparison with Adjusted Net Income.

(5) Distributable Amount; Part VIII, line 7; Valuable comparisons with Qualifying Distributions, Adjusted Net Income, Net Investment Income and Undistributed Income.

(6) Total Receipts as per books; Part I, line 13 (A); Gives overall picture of foundation receipts.

(7) Foundations making grants to individuals or expenditure responsibility grants; Part V N (1)(c) and (d); Total number of "Yes" answers to each of these questions would give some measure of the effect of TRA program restrictions.

(8) Organizations filing Form 4720 with Form 990–PF; Form 4720 actually filed; Identification of these organizations in data bank will provide a means for compiling information about penalty taxes, problems caused by TRA provisions and so forth, as needed from time to time.

With the authorization of revenues received from a 2 percent excise tax on foundation net investment income, it is imperative that the Internal Revenue Service upgrade its activities pertaining to charitable organizations and that it provide both Congress and the public with essential information which will fill in glaring gaps of the total foundation picture. Without this upgraded supervision of charitable organizations by IRS, there is no doubt that funds in an amount equal to the revenues from a 2 percent excise tax will be far in excess of IRS needs.[26]

B. MINIMUM DISTRIBUTION REQUIREMENTS APPLICABLE TO PRIVATE FOUNDATIONS

Section 4942 of the Internal Revenue Code requires that private foundations distribute to charity the greater of their current investment income or their "minimum investment return". The minimum investment return is a set percentage of the value of the foundation's assets. Subject to a phase-in rule for foundations in existence on May 26, 1969, the statute fixed the percentage at 6 percent initially, with provision for annual adjustment.

1. The statute

Section 4942(a), added by the Tax Reform Act of 1969, imposes a 15 percent excise tax on the "undistributed income" of private non-operating foundations.[27] A private foundation's undistributed income is the amount by which its adjusted net income or minimum investment return (whichever is greater) exceeds its charitable distributions and its investment income tax (imposed by section 4940) for the taxable year. Adjusted net income is gross income (including interest on state and municipal bonds, but excluding long-term capital gains and losses), less the expenses of producing that income and maintaining income-producing property.

The minimum investment return is determined by multiplying the value of the foundation's investment assets by the "applicable percentage" for the taxable year. Under section 4942(e)(3), the applicable percentage was set at 6 percent for 1970. The Secretary of the Treasury is directed to establish comparable percentages for subsequent years, taking into account money rates and investment yields. Transitional rules provided (1) that foundations in existence on May 26, 1969, for the years 1970 and 1971 were required to distribute only their adjusted net income, and (2) that for such foundations, the applicable percentage was to be phased in gradually—not to exceed 4½ percent, 5 percent, and 5½ percent for 1972, 1973, and 1974 respectively.

The following table depicts the applicable percentage rates for foundations since 1970:

[In percent]

Year	Foundations organized— After May 26, 1969	Foundations organized— Before May 27, 1969
1970	6.0	(1)
1971	6.0	(1)
1972	5.5	4.125
1973	5.25	4.375
1974	6.0	5.5

[1] Not applicable.

2. Determination of the applicable percentage

Pursuant to the direction to adjust the applicable percentage to reflect shifts in money rates and investment yields, using 6 percent for 1969 as a benchmark, the Secretary of the Treasury set the applicable percentage rates reflected in the table above. For taxable years beginning in 1975, the applicable percentage will be the same for all foundations. It could be set above the present 6 percent in money rates and investment yields.

3. Legislative history

a. *The Original Treasury Proposal.* A tax on an imputed "minimum investment re-

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turn" was first proposed in the 1965 Treasury Report on Private Foundations.[28] The report was prepared pursuant to a request of the Senate Committee on Finance and the House Committee on Ways and Means that the Treasury Department "examine the activities of private foundations for possible tax abuses and report its conclusions and recommendations to the committee." [29]

The report found that certain foundations were unduly deferring benefit to charity from their operations by accumulating their income, rather than distributing it currently for charitable purposes. The report also found that certain other foundations were giving rise to the same problem—deferral of benefit to charitable activities—by retaining or investing in assets producing little or no current income.

To deal with these problems, the report proposed, first, that private non-operating foundations be required to distribute net income "on a reasonably current basis." [30] Secondly, the Report proposed that, where actual income is below a reasonable rate of return for a diversified investment portfolio, non-operating foundations be required to distribute to charity a percentage of their investment asset value equal to a reasonable return. The report went on to state:

"The minimum level of charitable expenditures—i.e., the income equivalent—should be comparable to the yield on investment funds held by comparable organizations—such as universities. To provide for changing market conditions, the Secretary of the Treasury should be given regulatory authority to determine this rate on an annual basis." [31]

The report concluded that, based on then-existing market conditions, it would appear that a reasonable income equivalent would be in the range of 3 to 3½ percent.[32]

b. *1968 Johnson Administration Proposal.* Pursuant to the Revenue and Expenditure Control Act of 1968, the Treasury Department prepared a set of proposals and studies for major tax reform which were made available to the House and Senate committees on request in January, 1969, by the new Secretary of the Treasury. These proposals incorporated the recommendations of the 1965 Treasury report, including the minimum investment return.

The 1968 version, like that in the 1965 Treasury report, recommended that the Treasury Secretary be given authority to set a flexible applicable percentage "based on market conditions from time to time." [33] The 1968 proposal did not specifically recommend what the initial applicable percentage should be. It did, however, use a 5 percent figure in an example demonstrating the operation of the proposed applicable percentage. This example appears to have been the first mention of a 5 percent applicable percentage in connection with the minimum investment return concept.

c. *The Original Tax Reform Act Proposals.* The House Ways and Means Committee conducted tax reform hearings from mid-February through the end of April 1969, with extensive testimony on the recommendations of the 1965 Treasury report, and the Nixon administration's proposals. The administration proposed a 5 percent applicable percentage, Assistant Secretary Cohen stating:

"[O]ur requirement for current income distribution is somewhat more stringent than the private foundation report [1965 Treasury report] recommendations in that the foundations distribute a minimum of 5 percent of the capital value of the fund each year." [35]

The House Ways and Means Committee's tax reform bill (H.R. 13270), reported on August 1, 1969, included in section 101 (b) the 5 percent applicable percentage rate proposed by the administration. There was no debate in the House either on the minimum investment return concept or on the 5 per cent initial level for the applicable percentage.

d. *The Peterson Commission Proposal.* The Senate Finance Committee heard testimony from Peter G. Peterson, then Chairman of the Commission on Foundations and Private Philanthropy, a private group established in early 1969 to conduct a comprehensive study of foundations.[36] Mr. Peterson testified that the Commission felt there was a need to encourage foundations to invest their assets in more productive property. He said the Commission had concluded that a reasonable rate of return on foundation assets (based on the 1959–69 experience of "balanced" mutual fund investments) would be approximately 10 percent. To that end, Mr. Peterson stated that the applicable percentage included in the House bill should be raised from 5 percent to between 6 and 8 percent. He then summarized how the Commission reached its 6–8 percent recommendation:

"Over the last 40 years the average rate of inflation has been 1.6 percent and closer to 2 percent over the last 10 years or so. Thus, if the objective were that one should permit a reasonable investor to earn enough to maintain the purchasing power of his assets—then one could require an annual payout to charity of from 6 percent to 8 percent." [37]

e. *Senate Floor Action.* The Senate Finance Committee rejected the Peterson Commission recommendation and reported H.R. 13270 on November 18, 1969, with the 5 percent applicable percentage included in the original House bill.

When H.R. 13270 came to the Senate floor, Senator Charles Percy of Illinois proposed an amendment to increase the applicable percentage to 6 percent, based on the Peterson Commission's recommendation but without a direct inflation adjustment as proposed by the Commission.[38] The Chairman of the Finance Committee, Senator Russell Long of Louisiana, noted that this proposal had been considered by the Finance Committee and rejected.[39]

During the debate, Senator Percy observed that a proposal to limit the life of private foundations to 40 years had been deleted from the Senate Finance Committee's bill earlier. An increase in the applicable percentage from 5 percent to 6 percent, he stated, would answer the "legitimate concerns" of those who desired the 40-year limitation.[40] Senator Carl Curtis of Nebraska, opposing the Percy amendment, also saw its relevance to the 40-year lifespan issue."

"Mr. CURTIS. * * * Mr. President, I daresay that most of those Senators—I respect their views; they are honest in their views—who voted for the 40-year life of foundations will vote for the Percy amendment, because it is an amendment to cut off the dog's tail an inch at a time." [41]

The Percy amendment was adopted by the Senate.[42] In the House-Senate Conference Committee on the Tax Reform Act of 1969, the House acceded to the Senate amendment, and the 6 percent applicable percentage was included in section 4942(e)(3), as enacted.

There is some concern in the foundation community that the move to acquire more fixed-income assets, especially at a time when the rate of inflation is so high, may be deleterious in the long run to foundation programs. For this reason, some foundations have begun to play the market more aggressively.[43]

While there are no studies of the effect which section 4942 has had on foundation payouts in general, there is evidence that, prior to 1970, a substantial number of foundations failed to pay out an amount approaching that which would be required by a 6 percent payout rate.[44]

4. Public comment

The Senate Subcommittee on Foundations has received written and oral testimony from several foundations objecting to the applicable percentage set by section 4942. While those who have commented on this section critically are not opposed to the minimum distribution concept, they have generally expressed the belief that the 6 percent ultimate applicable percentage requires an invasion of foundation corpus.[45] They have also made the contention that the 6 percent rate is unrealistic when compared to current market conditions and rates of return. They have also contended that it is difficult for foundations to buy stocks with higher rates of return because the demand for those stocks—and therefore their price—is so high. Finally, they argue that foundation managers choose the stocks they do because of such unpredictable variables as inflation, war, foreign trade balances, foreign exchange rates, and the cost of money.[46]

Several foundations have questioned the standards used by the Treasury Department in arriving at the applicable percentage, and others have cautioned that the need on the part of foundations to increase investment yields will force them to convert investment securities into bonds or other fixed assets at serious trading losses, substantial transaction costs, and causing a possible severe blow to the Nation's economy.[47]

While some foundations support a reduction in the applicable percentage from 6 to 5 percent, based upon the belief that the 6 percent rate is unrealistic or because that rate requires an invasion of foundation corpus, there is no evidence that the 5 percent rate is a proper one, or that it would not require an invasion of foundation corpus. Based on figures supplied by the Council on Foundations during hearings before the Ways and Means Committee in April, 1973, foundation assets will decline in constant dollars whether the payout rate is 6 percent or 5 percent.[48]

5. Conclusions and recommendations

What is most convincing about the minimum distribution requirements of section 4942 of the Internal Revenue Code is the lack of hard, factual data on the effect which it has had on money going from foundations to charitable recipients and on the impact which it has had on the foundations themselves. In the words of a recent statement made by the Ford Foundation:

"Past discussions on this subject have often lacked a hard base in statistical data about the actual rates of return achieved by all classes of investors over long stretches of time.[49]

It is essential that Congress have this information before it can evaluate the need for any change in section 4942. The needed information can, and should, be compiled by the Treasury Department so that it is available for review by Congress in the early Spring of 1975 and should include information on the impact which the minimum distribution requirement has had on the amount of money going to charitable purposes, the standards used by the Treasury Department in setting the applicable percentage, the rates of return achieved by foundation investments, and the rates of return achieved by investors of all classes.

There is one defect in section 4942 which can be corrected. By Treasury Information Release No. 1288 (April 24, 1974), the Treasury Department announced that Revenue Ruling 74–238 (1974–21 Int. Rev. Bull.) would increase the applicable percentage from 5.25 percent of 6.0 percent for foundations organized after May 25, 1969, and from 4.375 percent to 5.50 percent for foundations organized before May 27, 1969. There was no public hearing on this proposal. It should also be noted that this was the first year in which the Treasury Department increased the applicable percentage.

Although it may be that section 553 of the Administrative Procedure Act (P.L. 89–332), which requires that government agencies

give notice to the public of a proposed change in a substantive rule or regulation and prescribes a period of time during which interested and affected parties may comment on the proposal, does not apply in this instance, the public should be granted an opportunity to comment.

Affording the public an opportunity to comment can only produce benefits for the Treasury Department. It may well be that an individual or organization is in the possession of factual data which suggest that the applicable percentage set by Treasury is either too low or too high. Treasury should have this date before making its final decision.

Accordingly, it is recommended that section 4942 be amended to give the public an opportunity to comment on proposed changes in the applicable percentage.

Several comments have been made to the Subcommittee regarding the lack of a definitive standard for establishing the applicable percentage.[50] The suggestion has been made that the substantial increase in the applicable percentage suggests that the standard used by the Treasury Department did not reflect the activity of "investment yields" but only the fluctuation of interest rates.

It is clear that whatever standard is used by Treasury, it must take into account the equity side of foundation investment policy, since foundations invest in equity securities. Although the Subcommitee on Foundations has yet to take testimony on a specific standard for determining the applicable percentage, an analogy can be found in the recently-enacted Employee Retirement Income Security Act of 1974. In determining an employee's accumulated contributions, the Secretary of the Treasury is empowered to adjust interest rate by comparing the long-term money rates and investment yields for a 10-year period ending at least 12 months prior to the year in which the adjustment would first apply. In commenting on this provision of the Act, the Senate Committee on Finance stated: [51]

"The Committee anticipates that the Treasury, in determining money rates and investment yields, will use a composite of a number of indicators. For example, one possible approach might be to give equal values to the dividend yields of the Dow Jones Industrial Average and the Standard and Poor's 500-Stock Average, and to the interest rates of Barron's or Moody's highest-rated bonds and United States Treasury long-term obligations. . . .

The adoption of a reasonable standard in the case of Section 4942 would seem both appropriate and wise.

C. OTHER RECOMMENDATIONS

During the June, 1974, hearings of the Subcommittee on Foundations, testimony was received from IRS Commissioner Alexander on the subject of declaratory judgments in the case of tax-exempt organizations.[52] The present delay in obtaining a court test of an adverse tax-exempt determination by IRS results in a loss of contributions to the appellant organization during the period of delay.

Accordingly, it is recommended that, if the IRS, after a reasonable period of time, fails to rule that an organization is tax exempt under 501(c)(3) of the Internal Revenue Code or withdraws such a ruling, the organization seeking exemption may petition the Tax Court for a declaratory judgment as to its tax exempt status. This procedure should apply both in the case of a final adverse determination by IRS and in the case of an interim determination or the failure to make such a determination. The latter instance is important in the case of an organization seeking an exemption as a public charity. If it gets such an interim determination and receives grants from a foundation, yet later loses its tax exempt status, the foundation donor may be subject to a penalty if the recipient organization is determined to have received an excessive amount of its support from that one foundation.[53]

FOOTNOTES

[1] 26 U.S.C. 4940. See also Hearings before the Committee on Finance on H.R. 13270 (Part 6), 91st Congress, 1st Session, (1969) at 5465 *et seq.* for a discussion of the role of income tax exemption for charitable purposes in American life; hereinafter referred to as Senate Hearings (1969).

[2] 26 U.S.C. 509.

[3] Treasury Department Report on Private Foundations, February 2, 1965.

[4] See Hearings before the House Committee on Ways and Means on the Subject of Tax Reform (Part 14), 91st Congress, 1st Session, (1969) at 19–20.

[5] See H. Rep. 91–413 (Part 1), 91st Congress, 1st Session (1969) at 19–20.

[6] See *Ibid.*, at 19.

[7] CONGRESSIONAL RECORD, vol. 115, pt. 17, pp. 22571–72.

[8] *Ibid.*

[9] See statement of Edwin S. Cohen, Assistant Secretary of the Treasury for Tax Policy, Department of the Treasury, in Senate Hearings (1969) at 30, *supra* Note 1.

[10] The Treasury Department opposed the decision to measure the tax by reference to asset value.

[11] See S. Rep. 91–552, 91st Congress, 1st Session, (1969), 27.

[12] CONGRESSIONAL RECORD, vol. 115, pt. 28, p. 37591.

[13] See H. Rept. 91–782, 91st Congress, 1st Session, (1969), 278.

[14–15] See Hearings before Subcommittee on Domestic Finance of the House Committee on Banking and Currency, *"Tax Exempt Foundations and Charitable Trusts: Their Compliance with the Provisions of Tax Reform Act of 1969,"* 93rd Congress, 1st Session, (1973) at 222. Figures on revenue yield and 1974 IRS costs were obtained from IRS.

[16] The following material is excerpted from the statement of IRS Commissioner Donald C. Alexander contained in Background Material for Senator Hartke, May 30, 1974, reprinted in Hearings before the Subcommittee on Foundations of the Committee on Finance, May/June 1974, 93rd Congress, 2nd Session, hereinafter referred to as the Subcommittee on Foundations Hearings, 1974.

[17] Boston, Manhattan, Baltimore, Philadelphia, Atlanta, Cincinnati, Cleveland, Detroit, Chicago, St. Louis, St. Paul, Austin, Dallas, Los Angeles, San Francisco, and Seattle.

[18] See Hearings before the Senate Subcommittee on Foundations of the Committee on Finance, *"The Role of Private Foundations in Today's Society and a Review of the Impact of Charitable Provisions of the Tax Reform Act of 1969 on the Support and Operations of Private Foundations,"* October 1 and 2, 1973, 93rd Congress, 1st Session, hereinafter referred to as The Subcommittee on Foundations Hearings, 1973.

[19] See Hearings before the House Ways and Means Committee on General Tax Reform (Part 14), April 9 and 10, 1973, 93rd Congress, 1st Session; House Subcommittee on Domestic Finance of the Committee on Banking and Currency, "Tax Exempt Foundations and Charitable Trusts: Their Compliance with the Provisions of the Tax Reform Act of 1969," April 5 and 6, 1973, 93d Congress, 1st Session.

[20] Reprinted in Subcommittee on Foundations Hearings, 1974, *supra* Note 16.

[21] Secretary Hickman's letter to Subcommittee on Foundations cited rough revenue estimates from the 4% tax for fiscal years 1974 and 1975 of $80 million.

[22] Labovitz, John R., "The Impact of the Private Foundation Provisions of the Tax Reform Act of 1969: Early Empirical Measurements," in the Journal of Legal Studies, Vol. 3, p. 77 (January, 1974).

[23] Excerpted from the statement of IRS Commissioner Donald C. Alexander contained in Background Material for Senator Hartke, May 30, 1974, reprinted in Subcommittee on Foundations Hearings, 1974.

[24] Supra, Note 16. See H. Rep. 93–779, 93rd Congress, 2nd Session (1974) at 102.

[25] See letter from Commissioner Alexander to Senator Vance Hartke, April 12, 1974, reprinted in Subcomittee on Foundations Hearings, 1974, *supra* Note 16.

[26] It is expected that the Internal Revenue Service will soon revise its audit practices and will provide the Subcommittee on Foundations with much of the information requested in its June, 1974, hearings.

[27] The term "non-operating" refers to grant-making foundations.

[28] *Op. Cit.*, note 3.

[29] Letter of Transmittal of Secretary Dillon, February 2, 1965, contained in "Written Statements by Interested Individuals and Organizations on Treasury Department Report on Private Foundations." 1965 committee print of the House Ways and Means Committee.

[30] *Id.* p. 26.

[31] *Id.* pp. 28–29.

[32] *Id.* p. 29.

[33] "Tax Reform Studies and Proposals of U.S. Treasury Department," p. 301 (1969) (Joint Committee Print of the House Ways and Means Committee and the Senate Finance Committee.)

[34] *Ibid.*

[35] House Ways and Means Committee Hearings on the Subject of Tax Reform, 91st Cong., 1st Sess. (1969), p. 5558.

[36] Because the Commission was just commencing its study in early 1969, Mr. Peterson did not testify in the House hearings, and the Ways and Means Committee did not consider the Commission's views in drafting H.R. 13270.

[37] Senate Hearings, supra note 1, at 6170.

[38] CONGRESSIONAL RECORD, vol. 115, pt. 28, p. 37488.

[39] *Id.*, p. 37493.

[40] *Id.* p. 37493.

[41] *Ibid.*

[42] *Id.*, p. 37495.

[43] Labovitz, *supra* note 22, at 87.

[44] *Id.*, at 93.

[45] Subcommittee on Foundations Hearings, 1973, supra note 18 at 184.

[46] House Ways and Means Committee hearings, 1973, supra, note 19 at 5879–80.

[47] See responses to Subcommittee on Foundations invitation for written comments on sections 4940 and 4942, July 1, 1974.

[48] *Ibid.*

[49] Labovitz, *supra* note 22, at 93–94.

[50] See *supra*, note 47.

[51] Report of the Committee on Finance, United States Senate, "Private Pension Plan Reform", Rep. No. 93–383, August 21, 1973.

[52] *Supra*, Note 16, Subcommittee on Foundations Hearings, 1974.

[53] 26 U.S.C. 4942, 4945.

ADDITIONAL VIEWS OF CARL T. CURTIS, SUBCOMMITTEE ON FOUNDATIONS, SENATE COMMITTEE ON FINANCE, OCTOBER 1, 1974

I believe that the tax on foundations should be reduced immediately and I concur in that recommendation in this report. I believe that the payout provisions must be liberalized and that it is important that it be done without delay. I favor such liberalization now.

CARL T. CURTIS.

Senator Fulbright, being unable to attend the hearings on which this statement is based, reserves judgment on its contents.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 4016, which will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 4016) to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I yield myself such time as I may use.

Mr. President, if I wanted to prolong the cover-up of the Watergate affair, which has given agony to the American people for more than 2 years, I would vote for the motion to refer this bill to the Committee on the Judiciary. If that motion failed and I still wanted to assist in covering up and hiding from the American people the truth about the Watergate affair, I would vote for this substitute. Talk about a Pandora's box. What came out of Pandora's box cannot be compared to this substitute.

The Government Operations Committee reported a very narrow bill, a bill that is designed to do away with the agreement whereby one of former President Nixon's appointees, Mr. Sampson, entered into an alleged contract with the former President whereby all the tapes will be destroyed the very instant the former President dies, and whereby, even after the tapes would become the property of the Government under the agreement, by donation, the Administrator of the General Services Administration would have to destroy any tape which the former President ordered him to destroy.

The American people have been in agony since June 17, 1972 the darkest morning hours of that day—when five burglars were caught in the Watergate complex. A few days later, the news media made these things plain:

The first was that $114,000 of President Nixon's campaign funds had been deposited in the Miami bank account of one of the burglars, Bernard L. Barker. The second was that this burglar, Bernard L. Barker, withdrew thousands of dollars in cash from that account, in $100 bills, and the bank, under regulations, kept the serial numbers of these bills. The third was that Barker returned these $100 bills, less a discount of about $2,500, to the Finance Committee to Reelect President Nixon. The fourth was that 53 of these $100 bills were found in the actual possession of the four burglars from Miami at the very moment they were caught burglarizing the headquarters of the opposition political party in the Watergate complex.

President Nixon had sworn to perform his duties under the Constitution, and his main duty under the Constitution was to take care that the laws be faithfully executed. I insist that that constitutional obligation imposed upon President Nixon the duty to determine how it happened that four of the five burglars had his campaign funds in their possession at the time that they committed the act of burglary. If he, at that time, had acted with the forthrightness which his high office imposes upon its occupant, he would have called in Mr. Mitchell and Mr. Stans, to whom he had entrusted the management of his campaign and his campaign finances, and asked them how it happened that the burglars caught in the headquarters of the opposition political party had $5,300 of his campaign funds.

Did he do that? No. Let us see what he did.

We found out on June 16, 1973, that the so-called Watergate tapes existed. The Select Committee on Presidential Campaign Activities called on the President for the tapes, and he said, "I am not going to give them to you." So he impeded our work, although it came out later.

The President also wrote me, as chairman of that select committee, a letter in which he said, "These tapes are under my sole control and will so remain." When we subpenaed the secret servicemen who had charge of the tapes, Secretary of the Treasury Shultz sent us a letter—and a lawyer along with it. He said, in effect, "On order of the President, I have ordered these men not to tell your committee anything."

I did not want to cite some underlings for contempt of Congress for obeying the orders of the President, transmitted through their boss, the Secretary of the Treasury.

It appeared later that while these tapes—which were, according to the President's declaration to the committee, under his exclusive control—the entire conversation on the tape of June 20, 1972, between him and his chief of staff, Mr. Haldeman, had been intentionally and purposely obliterated. The experts said either five or nine separate efforts were made to do so.

We know from the notes of that conversation, which were made by Mr. Haldeman and introduced in the hearings before Judge Sirica with regard to this obliterated portion of the tape, that he and the President talked not about how the President was going to enforce the law, or about how he was going to take care that the laws be faithfully executed. The whole conversation on June 20 was, according to Mr. Haldeman's notes, about how they could mount a public relations matter that would distract the attention of the American people from the burglary.

Then, lo and behold, it came out later, when Mr. St. Clair said that the President had been withholding the tapes from him as a lawyer, that the President had had another conversation with Mr. Haldeman on June 23, 1972, just 6 days after the burglars were caught in the Watergate. He and Mr. Haldeman, on that occasion, discussed how they could get the CIA to induce the FBI not to investigate these checks, particularly $89,000 in Mexican checks, that had gone into Barker's bank account, and from whence the $5,300 found in the possession of the four burglars came.

Testimony taken before the select committee showed that Haldeman and Ehrlichman called Mr. Helms and General Walters, the Director and the Deputy Director of the CIA, to the White House and insinuated to them that the CIA should tell the FBI not to investigate these Mexican checks that financed the burglarizing of the Watergate because it might impinge on CIA operations in Mexico. Be it said to the credit of the Director and the Deputy Director of the CIA that they said that there was no CIA interest involved, notwithstanding the fact that John Dean, acting on the instructions of Haldeman and Ehrlichman, the two men closest to the President, tried for days at a time to get the Director and Deputy Director of the CIA to interfere in this matter. The Director of the CIA and the Deputy Director would not do it.

It occurred further that the President came before this Nation and showed a big stack of things that he was sending down to the House Judiciary Committee—the transcripts. There were only two of those transcripts that had any relationship whatever to anything that had happened between June 17, 1972, and the meetings in March 1973. One was that of September 15, where John Dean testified before the select committee that he was called in to the President's office after they thought they had inhibited the investigation by indicting several insignificant people, and after Mr. John W. Hushen, the public relations man of the Department of Justice, and Attorney General Kleindienst had issued statements that the Department of Justice had no evidence that anybody else was involved in the Watergate affair except these seven men.

Dean testified that on that occasion, the President called him in and praised him for his good work in containing the indictments to those seven insignificant men.

When the President sent down the tapes, he left out the most significant parts of the conversation between him and John Dean, especially the part of the conversation in which he told John Dean to keep a list of his enemies, and said in effect, "I shall use the Department of Justice, the Internal Revenue Service, and the other agencies of the Government to punish them after I am reelected." He left that out.

The only other tape during the cover-up operations of which a transcript was sent down was the one of February 28, 1973. Three portions of that were omitted. February 28 was the day on which John Dean said that he told the President that he, John Dean, was guilty of obstruction of justice for carrying out the orders he had received from the top people in the White House. The President assured him that he was not.

Three pieces of that February 28 tape were not transcribed and sent down here.

Just the other day, it came out that when Watergate started to unravel and Jeb Magruder started talking to the prosecutors, the President and Mr. Haldeman had another conversation.

Mr. Haldeman told the President that Magruder was talking to the prosecutors, and the President said this:

Why, he is supposed to lie like hell for us.

Haldeman said:

Well, I am afraid he is not doing it.

Then, the President called in Henry Peterson, in charge of the criminal division of the Justice Department, and tried to get him to promise him, the President, that Mr. Peterson would not grant John Dean any immunity. John Dean's lawyers had stated that they would not let him testify unless he was granted immunity.

They had several conversations. Henry Peterson would not make the promise that he would not grant immunity, but he did promise the President, on one of the transcripts, that he would not grant immunity without consulting the President again; and in a subsequent conversation the President let the cat out of the bag. He told Mr. Peterson:

I hope that nobody would think that the reason I don't want Dean granted immunity is to keep him from testifying against Ehrlichman and Haldeman.

The whole Watergate matter could have been terminated a few days after June 17, but since that time we have had a cover-up operation. There has been a lot of deception about this matter.

Although the President would not let our committee hear the tapes, he let Mr. Haldeman hear the tapes, when Mr. Haldeman was subpenaed as a witness before the select committee.

When Mr. Haldeman gave the testimony he had submitted in advance to the select committee, his lawyer, Mr. Wilson, got up and said, "Mr. Haldeman wants to give some further testimony, but we do not know whether the committee will hear him. The White House lawyers claim this further testimony is covered by executive privilege, and the committee ought not to hear it."

I said, "What is the further testimony he wants to give?"

His lawyer said: "He wants to testify to his version of what the tapes say." He was referring to the tapes the President would not give the committee—"and that the President fought all the way to the Supreme Court to keep the courts from getting."

One of those was the tape of March 21.

I told Mr. Wilson, "I do not believe the lawyers for the White House are claiming in good faith that this is covered by executive privilege, because if they were, they would be down here to raise the point themselves. They are conspicuous by their absence." I said, "To be frank with you, in North Carolina language, I think there has been some 'kaniggling' going on."

He said, "Are you impugning my professional integrity?"

I said, "No, I am just giving you and the White House lawyers credit for being pretty smart in trying to bring in Mr. Haldeman's version of the tapes but not letting us have the tapes themselves. But nevertheless, we will hear him."

So Mr. Haldeman, who had been entrusted with the tapes that the President would not let the select committee have, undertook to detail to the Committee what he claimed the tapes said.

Haldeman's version coincided with John Dean's testimony pretty well down to the crucial point. That point was when he admitted that Dean told the President that Hunt was demanding—I think it was $120,000 more money—otherwise he was going to expose all the dirty tricks he had done for John Ehrlichman, the second man to President Nixon at the White House.

The Mr. Haldeman testified that the President said, "Well, there would be no trouble getting the money, but that would be wrong."

Well, when the grand jury got that tape, they indicted Haldeman for perjury. They indicted Haldeman for testifying falsely before the select committee on that point; and when the tape became available and was transcribed by the House Judiciary Committee, it showed that the President, instead of saying it would be wrong to pay this hush money to Hunt, had three or four times told them to go ahead and pay Hunt the hush money. It also showed that what he had talked about when he said "it was wrong" had no relationship whatsoever to the hush money; it related to the President's inquiry of Dean whether he could afford to give executive clemency to the men who had been convicted in the Watergate burglary. Dean told the President he could not, that it was politically impossible for him to do so, and that it would be a very unwise act from the political standpoint. Then the President said, talking about the proposal for executive clemency, "It would be wrong"—not morally wrong, but politically wrong.

So we not only have had all these efforts to cover up, to hide the truth from the American people, but also we have had attempts to prevent a congressional committee from knowing the truth. We have had the payment of hundreds of thousands of dollars of hush money, and still an effort is being made to cover up the truth.

Now, there was one way the truth could have been revealed. The grand jury named President Nixon as a coconspirator in this coverup operation, this obstruction of justice, which means that he could have been indicted. But President Ford, after making or authorizing the making of three statements indicating the contrary, suddenly, to the surprise and consternation of the country, granted President Nixon, I believe he said, "an absolute, full, and unconditional pardon."

We were asked yesterday why this bill goes back to 1969 and comes down to the President's resignation about these papers. Why, because that was the period for which he accepted the pardon for all the crimes he had committed or may have committed against the United States. That is the reason why we go back to that date in this bill.

I am not impugning the motives of President Ford in granting the pardon. He said he was moved by a merciful inclination.

But he had never read a little adage that I read many years ago: Mercy murders in pardoning those who kill.

Mercy in this case murdered justice and the pursuit of truth, because when President Ford granted that pardon he deprived the courts of this land of the jurisdiction which they would otherwise have had under the Constitution and laws of the United States to investigate directly by judicial proceedings the full story of Watergate and Mr. Nixon's involvement in that story.

That was the effect of the pardon. The select committee's death warrant had already been signed; it could not resume its investigation. The House Judiciary Committee stopped its impeachment proceedings after voting that the President ought to be impeached, because the President resigned. Then President Ford, for merciful reasons, prolonged the coverup operation. That is the effect of the pardon—to deprive the courts of the full capacity to investigate the truth.

Now this substitute, if adopted by the Senate, will show that the Senate, too, is going to aid and abet in hiding from the American people the whole truth about the Watergate affair.

I, for one, think the American people are entitled to know how a man they had entrusted with the Presidency, and how men the President had entrusted with his governmental and political power, acted in trying to prostitute the process and destroy the integrity of the process by which Presidents of the United States are nominated and elected, insofar as the Presidential election of 1972 was concerned.

Now, I said this is a narrow bill. All that the committee bill is designed to do is to protect for future use in the courts of the tapes and other documents which evidence criminal acts. The bill expressly provides that the Administrator of the General Services Administration will adopt regulations, and he will exclude the public from viewing these documents taken under his custody until he has separated them.

Nobody is going to get access to President Nixon's personal papers. Nobody is going to get access to anything relating to national security or anything relating to national defense. The only evidence that the bill permits access to as far as that is concerned, is as to criminal conspiracies. That very point was involved in the Supreme Court decision which has been cited. The Supreme Court decision said that the mere claim of confidentiality or executive privilege where no national security was involved, no military secrets were involved, and no diplomatic relations were involved had no validity and the tapes were required to be produced in court in order that due process of law might be done. So that is our objective.

The American people and the prosecutor are given the right ultimately to know what the truth is.

Now, I have never heard so many constitutional ghosts, which do not exist, conjured up before in my life. We are told that this is a bill of attainder prohibited by the Constitution.

A bill of attainder is a legislative act which adjudges someone guilty of a violation of the law, and not only does that but inflicts upon him legal penalties for his violation of the law.

This bill does not contain a word to the effect that Mr. Nixon is guilty of any violation of the law. It does not inflict any punishment on him. So it has no more relation to a bill attainder—if it is to be compared to a bill of attainder—than

my style of pulchritude is to be compared to that of the Queen of Sheba.

Then we are told that this violates somebody's first amendment rights. Why, it does not do anything of the kind. What we are after is the exercise of first amendment rights in connection with criminal conspiracies. This bill does not keep anybody from talking—anybody. So it cannot interfere with freedom of speech.

The Supreme Court said it does not invade anybody's right of privacy, unless people have a private right to formulate criminal conspiracies. The Supreme Court exploded that idea when it handed down the 8-to-nothing decision requiring the President to produce these tapes.

Well, they say there is more than one way to kill a cat without choking it in butter. This substitute is an effort to kill the bill.

We are told, in the first place, that we offended in bringing the bill in without conducting any hearings. I would venture the assertion—I do not know the exact figure—that the American taxpayers have spent at least $10 million trying to investigate the Watergate against all of the efforts to cover up the truth of the matter. The select committee spent virtually all of $2 million. The House Committee spent several million; I do not know how many million the courts and the Special Prosecutor have spent.

The subject matter of the pending bill needs no further investigation. There have been more hearings held on this subject in the Senate select committee, in the House Judiciary Committee, and in the courts, than have been held on any subject on the face of the Earth since the morning stars first sang together for glory.

And yet we are told that our committee ought to have taken more evidence and held more hearings. Why, the select committee alone has about 25 or 26 volumes of printed evidence on Watergate. The House Judiciary Committee has more than that. The transcripts of the record in Judge Sirica's court add considerably more to the public record.

But after they criticize us for not holding some more hearings on the most investigated subject of all time, they offer a substitute of a much broader nature that would itself require hearings.

This substitute declares certain papers to be public papers. But it is worded so that it excludes the papers of President Nixon. It also proposes to take all of the papers of all of the Senators and all of the Congressmen, without any hearing being held on the subject, and make them public property.

Now, this is a serious question. There is not a scintilla of evidence that any Member of Congress, or Presidents Roosevelt, Truman, Kennedy, or Johnson had anything to do with the matter that the committee bill relates to, and that is the Watergate affair. Yet the substitute would have the Government confiscate the papers of Senators, Congressmen, and these former Presidents. It presents a much broader question than does the committee bill.

Now, how much is that going to cost the taxpayers if the courts hold that the papers of these other Presidents and of Senators and Congressmen were their private property?

I, as chairman of the Watergate select committee, received far more than 1 million letters and telegrams. Suppose I put in a claim for their value? A lot of people would pay a lot of money for them, although some would pay a whole lot more if they had never been written.

What is it going to cost?

Beside that question, a Senator or a Congressman is in a different position from the President in respect to official papers because most all of the President's official papers are executed in connection with the preformance of some official duty of his.

About the only official duty that we Senators have is to come over here on the floor of the Senate and try to have enacted wise legislation.

I and every Congressman and Senator have received hundreds and hundreds of letters written by private individuals in connection with some slight, small Government matter that would be very embarrassing to those people if they were released.

That would serve no purpose because most of these people who wrote us were not Presidents of the United States or John Ehrlichmans or H. R. Haldemans; they were just humble citizens. And yet all their letters would all be taken over.

If the courts were to hold that the papers of these other Presidents and the papers of Senators and Congressmen are their personal property—and a very good argument could be made to that point on account of the history in this matter—then $10, $11, or $12 million that has been spent thus far investigating the Watergate affair would be chickenfeed when compared with the cost that this substitute would impose upon the taxpayers.

Now, I said that if I were opposed to having the American people know the full truth about the Watergate affair, I would vote personally for the motion to send the bill to the Judiciary Committee.

I am a member of the Judiciary Committee. It took us 4 or 5 weeks to get a quorum on two occasions. Recently when we were considering important legislation, the rules of evidence bill, one member got up and walked out and we lost a quorum before we could reach decision on the bill.

So if we send this to the Senate Judiciary Committee, the chances of the committee's getting a quorum the remainder of this session are very small.

If the bill goes to the Judiciary Committee and we try to determine what all the Senators' and Representatives' papers are worth, it will be about the time that the last lingering echo of Gabriel's horn trembles into ultimate silence before the Judiciary Committee makes a report.

So, I say again, if I were in favor of continuing to hide from the American people the truth about Watergate, I would vote to send it to the Judiciary Committee. If that motion failed and I were still in favor of hiding the truth about the Watergate affair, particularly the full extent of the former President's involvement in it—and we know now that he was involved on what little tapes have been admitted, obtained—then I would vote for this substitute because there is a possibility that the House would never get around to consideration of the broader substitute.

But even if it did and, exercising intelligence, passed a narrow bill like the committee bill and sent it back over here in the waning days of the session, it would be very easy to mount a filibuster and put an end to this search for the truth.

For that reason, I urge the Senate to vote against the motion to recommit. I urge the Senate to vote against this substitute because our bill is very narrowly drawn. The only papers that would be taken from Mr. Nixon under it would be evidence relating to the criminal acts known as the Watergate affair, that is all—plus documents of great historic value. All the rest of the papers on this bill as amended yesterday will be returned to Mr. Nixon.

I read in the press that when the President undertook to take a tax deduction of hundreds of thousands of dollars on some of his papers, those papers included thousands of invitations he had received to attend various meetings and gatherings and thousands of letters declining the invitations.

Now, for what earthly reason should the taxpayers be required to take over those papers?

Should it not be restricted to those that deal with evidence of criminality and those with historical events and not matters of this kind?

I urge the Senate to vote against the motion to refer and to vote against the substitute and pass a forthright bill which deals with the problem that gave rise to the necessity for this bill.

This substitute reminds me of the man who had a friend who had a headache. Instead of giving him an aspirin tablet, he thought the best way to cure his headache was to shoot him through the head.

That is what the substitute proposes to do to legislation which is imperative if the American people and the courts are going to have the full truth about the Watergate affair.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum, the time for which will be equally divided by unanimous consent between the two sides.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, it is my understanding of the parliamentary arrangements in the Senate today that there will be a discussion of the several points that still remain for decision during the course of the morning and that, commencing at 1:30, there will be a vote

on each of the proposals that will occur during the course of time before 1:30.

The PRESIDING OFFICER. The Senator's understanding is correct.

Mr. HRUSKA. May I say, Mr. President, by way of guidance for the Members, that it will be my intention to make a motion to refer the pending bill to the Committee on the Judiciary. If that motion fails, it is my intention to offer an amendment by way of a substitute. That substitute will be the text of a bill which has been introduced in the Senate, No. S. 4080. Then, presumably, if that amendment is rejected, the bill in its original form, or if the amendment is adopted as amended, will come up for a final vote. But those three votes will occur commencing at 1:30.

Therefore, Mr. President, at this time I formally move that the bill be referred to the Committee on the Judiciary.

Mr. President, a number of discussions have occurred on the floor of the Senate yesterday and today having to do with points that are very interesting, but they are not very relevant to the issues at hand here.

I think most of us are agreed that burglary, whether it is in Watergate or anyplace else, is an illegal act. Most of us—in fact, all of us—are agreed that obstruction of justice is a very wicked and criminal act; likewise, that perjury, when it is committed in regard to these or any other events, is a serious crime and federally punishable, and that conspiracy to do these things likewise is illegal and heavily punishable. They are against the law, they violate constitutional rights.

However, in the disposition of S. 4016, these are not particularly relevant issues. We have before us a measure that involves the matter of due process, the matter of proceeding in a constitutional way, with due reference to a number of rights which all citizens have—and officers and institutions as well.

Reference has been made to the pardon which the President issued to the former President. Let me suggest that that is a power which flows directly from the Constitution to the President. It is for him to utter and grant such a pardon on whatever terms he wishes and whatever conditions might be attached, and whatever he does in the realm of his conscience and of his best judgment. That is a prerogative of the President.

It is well settled that Congress has nothing to do with it. Congress is impotent to try to legislate any changes or modifications or limitations to the pardon or to any of the conditions attached to it.

Happily, the Chief Executive of this Nation will appear before a committee of the other body, at which time he will subject himself to questions on interrogatories and make a statement in explanation of the facts and the background of his constitutionally exercised power.

Reference has been made to the expense of applying the general law, such as that proposed in S. 4080, my bill, which will be general in character, and will apply to all Presidents from 1929 on, and to Members of Congress, with reference to preserving as public documents the papers of their office.

Mr. President, not a nickle of tax money would be devoted to the maintenance and to the preservation and the accessibility of the Presidential papers of former Presidents Hoover, Franklin D. Roosevelt, Truman, Eisenhower, Kennedy, or Johnson. Those papers are already property of the United States. They were donated to the United States without any expense whatever to the taxpayer.

I believe that the way S. 4080 is drafted will take due cognizance of the fact that those papers and their present custody and handling will be within the framework of that law, if it is enacted. If there is any respect in which the custody and the preservation of those papers is in contravention of the law, corrective steps can be taken.

As to the papers of Members of Congress, no expense will be involved as to any future papers that accumulate, after the enactment of this law, because those papers will not belong to the Members of Congress. They will be public property. Being so declared and having that status, it will not be necessary to pay one penny for the purpose of compensation which the law of eminent domain requires. The law of eminent domain will not apply to those papers in any way whatever, because they will be Government papers. So that is a factor which we can discard for the purpose of considering disposition of the pending bill.

Mr. President, it is suggested—in fact, the committee reporting the pending bill has written—that there is imminent danger that the papers will be destroyed, that they will not be taken care of properly, and that therefore, this bill, regardless of any lack of procedural care in its processing, should be passed so as to get the job done and prevent the destruction of these papers.

Mr. President, there could not be a more mistaken idea contained anywhere in the report than that idea. I outlined it yesterday on the floor of the Senate. I shall do so briefly again.

Those papers are still physically in the custody of the Government, in Washington. Physically, they are here. They have not been shipped anyplace. If and when they are shipped, pursuant to the agreement that was entered into by Mr. Nixon and the General Services Administration, they will be placed in a safe place under proper guard, and with due protection from all hazards. They will be available for access only with the application and the use of two keys, one of which will be in the possession and control of Mr. Nixon, the other of which will be in the possession and control of the authorized officer of the Federal Government, and neither one will be able to get into those without the other. There is ample opportunity for such access as will be necessary for official purposes, for either Mr. Nixon's purposes or for the Government's purposes.

General law, which is now in effect and which followed the decision of the Supreme Court in the case of United States against Nixon, has it that for any criminal prosecution, those papers are available. That is the law. It supersedes the constitutional privilege and right of the office of the President to Presidential confidentiality of records, so that is not an issue.

There is no necessity, Mr. President, for the hasty enactment of this bill, because there is no such thing as an imminent danger. It is not necessary that we go into the matter of enacting something hastily without a proper processing of this legislation.

Mr. President, yesterday we went into great detail on the matter of the several constitutional points and questions which should be very carefully canvassed by the Committee on the Judiciary, in my judgment, in the original instance and, by the Committee on Government Operations, hopefully—they did not do it the last time; I hope they will do it in legislation that will come before them in the future—these points partake of the nature of fundamental constitutional rights and they should be considered. I am confident that after a full consideration of them, the public will still have the right to know, within the confines and within the boundaries of constitutionally-permissible areas that they have a right to know. There are other constitutional privileges and rights which have to be equated, and the order of priority has to be equated and established in proper order with the right of the public to know.

Some of these considerations are the matter of executive privilege, Presidential confidentiality—not of Mr. Nixon, not of Mr. Ford, not of any individual—the confidentiality of the records of the Office of the Presidency. That law has been set out and confirmed by the case decided just recently by the Supreme Court, United States against Nixon. That is one of the things that is very, very much in the forefront. We should act in the light of the teaching of that case, because there is involved the running of an office in the proper way, the feeling of confidence of people who will be talking and negotiating and conferring and interviewing the occupant of the White House, whoever he is, with the assurance that whenever the communication is of that nature, it will not be thrown into the public arena for satisfying the urge and the pressures of the moment by way of emotion for the right of the public to know.

It has a right to know, Mr. President, but there are other rights which also must be taken into consideration.

A second constitutional point is that this is an unprecedented "taking" under the law of eminent domain of literary property. The fruit of the thinking and of the mental processes and of the beliefs of a President will be, for the first time, taken under a proceeding of eminent domain. That should be thoroughly considered.

Those first two privileges and rights that I mentioned form the basis for the next right that we discussed here yesterday in great detail. That is the right of privacy; not only the right of privacy of the occupant of the President's office, but the rights of privacy which should be accorded under the Constitution to the many individuals who will be in the White House or anyplace else, in conferences and in conversations and in negotiations, verbal or written or taped

or filmed, between the President and these people.

So it is not only the right of privacy of an individual who occupies the office of the President, but likewise, the many hundreds and perhaps thousands, through the years, of all people who find their way to the President's presence.

Arguments founded on the bill of attainder were debated. The right of property was debated: Whose property is it?

There is no question, Mr. President, whose property these papers are, which S. 4016 is directed to. They are the property of Richard Nixon. The Attorney General of the United States has so ruled. To overturn that and to overcome that will be to reverse the decisions, the thinking, the practice, and the law of the Nation ever since 1786, and that is a long, long time. It certainly appears to partake of the nature of an ex post facto law.

What can be done by way of the taking of the papers should be determined, Mr. President. The limitations of the powers exercised here, its difficulties, should be examined in hearings and by testimony from authorities on the subject and serious study.

I have explained that there is not any imminent danger to the custody of the papers, or any destruction. That certainly is the fact. Injunctive proceedings are available to enjoin the destruction of the tapes. If we refer this bill to the Committee on the Judiciary and have an orderly treatment of it, we shall then avoid the infirmity that is suffered by the bill.

I submit to you, Mr. President, that that is the very nature of this bill. It is a bill introduced out of the passions and emotions of an unprecedented event, and this legislation and this event should be considered in the sweep of history. It should be considered in the light of the impact which will be made in future years by way of a precedent that we are formulating.

The infirmity of such a bill, Mr. President, is compounded here by the fact that this bill has been brought to the floor quickly without going through the regular legislative process and without an airing of even the most fundamental issues and the most obvious issues. No hearings were held at all—none.

The infirmity that attaches to this bill is the confusion of a power's validity with its cause. In short, the philosophy adopted here is that the end justifies the means. There are many people who want to have access to those papers, and they want to have them regardless of the rights and the obligations owed to the Federal Government, to the Congress, and by the courts in our system of government and residing in others.

I ask unanimous consent, Mr. President, that there be printed in the RECORD at this time the expression by Justice Jackson in the steel seizure case, which is to be found on page 18249 of the RECORD, and which was cited by this Senator in the debate yesterday. I shall not bother to read it now.

There being no objection, the statement was ordered to be printed in the RECORD as follows:

The opinions of judges, no less than executives and publicists, often suffer the infirmity of confusing the issue of a power's validity with the cause it is invoked to promote, of confounding the permanent executive office with its temporary occupant. The tendency is strong to emphasize transient results upon policies . . . and lose sight of enduring consequences upon the balanced structure of our Republic. *Youngstown Sheet Tube Co. v. Sawyer*, 343 U.S. 579, 634 (1952).

Mr. HRUSKA. Mr. President, it is for these reasons that I make the motion to commit the bill to the Committee on the Judiciary.

If the motion is not adopted, I wish to say that I was very gratified by the statement of the Senator from North Carolina that he would accord full hearings to the text of the amendment, and the substance of the amendment offered by Senator PERCY yesterday. I hope that he will join me, or at least will have no objection to referring that will together with S. 4080, jointly to the Committee on the Judiciary and the Committee on Government Operations, with the Committee on Government Operations having the primary obligation.

Mr. ERVIN. If the Senator will pardon me, I did not say I would hold hearings, because I am retiring at the end of the present session. I will be gone; I cannot possibly hold hearings before January. But Senator RIBICOFF said he would hold hearings.

Mr. HRUSKA. Yes. But I understood the Senator from North Carolina to say he was in sympathy with hearings being held on it.

Mr. ERVIN. I am because I want considered, first, how many millions of dollars it is going to cost if the Government contends that papers of all Senators and Representatives, President Hoover, President Roosevelt, President Truman, President Eisenhower, President Kennedy, and President Johnson are public property. That is what the Senator's substitute provides.

Mr. HRUSKA. Well, I would respectfully suggest a difference of opinion on that point, because my bill will center on this proposition only insofar as Members of Congress are concerned. It will declare that those papers will, from the enactment of the bill, be Government papers, public papers, and there will be no eminent domain.

Mr. ERVIN. Yes; the Senator's proposal provides that all the letters they write are to be Government papers.

Mr. HRUSKA. It will provide that if it is impracticable or burdensome, or if it is too expensive, they can be exempted.

Mr. ERVIN. And there cannot be any hearings on that, because we have to vote on the substitute without any hearings.

Mr. HRUSKA. That is an error that can readily be corrected. All the Senator has to do is call for hearings and include the very necessary element of public hearings in the text of the bill, S. 4016, and then we will be on solid ground.

Would the Senator go that far, to have that bill referred for hearings and also S. 4016?

Mr. ERVIN. Does the Senator mean the bill I am advocating that the Senate pass? I hope it will be passed long before January.

Here is the thing about it: If these papers are the property of Senators, then under section 2208 on page 8 of the Senator's substitute, they would all have to be compensated. And what, for example, of the far more than a million letters and telegrams I received as chairman of the Senate select committee? What are they worth?

Mr. HRUSKA. Mr. President, if that provision in my bill, S. 4080, is too burdensome, if it is not practicable, if it is too expensive, in the process of legislating that bill it can be either eliminated or modified to the extent of applying the provisions prospectively, and that would satisfy me.

Mr. ERVIN. If the Senator's substitute is adopted, it goes on with no chance for hearings, none whatever.

Mr. HRUSKA. Of course, the Percy amendment applied to the same thing; it is in the same category.

I would not dream of getting into a situation where there would not be the necessity for hearings, but it just occurred to me, Mr. President, that since there were no hearings on S. 4016, it would appear that the adoption of my amendment without hearings is equally legitimate and proper.

I see the Senator from Pennsylvania is present. He will want to take some of the time, which is now on a limited basis. I yield 5 minutes to the Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I want to begin by saying that it is essential that we avoid, at all costs, the destruction of these papers. I would like to feel that papers of previous Presidents could equally be preserved. I recall, I believe, that the Adams family destroyed their papers; the widow of President Harding burned his papers; and certainly the agreement with the GSA should be legislatively modified to protect us against this destruction.

So, Mr. President, I want my position on this matter of Presidential papers clearly understood. I favor full disclosure, and said so last month. I do not favor the possible destruction of any Watergate-related material, as provided in the GSA agreement, and would support legislation to prevent any such unfortunate destruction. However, I deplore this legislative distortion of the Constitution no matter what lofty objectives are intended.

The Judiciary Committee ought to be given an opportunity to review the bill prior to Senate action and I regret the haste in which we are about to pass it.

There are a number of serious constitutional questions involved and a respect for the Constitution itself have impelled us to have hearings promptly and to report back to the Senate expeditiously. The rationale behind the bill is proper and its purposes, if constitutional, are warranted.

Our distinguished friend the eminent senior Senator from North Carolina is widely respected as not only an expert on the Constitution, but its personal protector and intimate friend. I have noted this before.

Knowing how much he values the Constitution, I have asked him to leave the original with the Government and carry with him in his heart only his sincere devotion and his acute regard.

We have heard the distinguished Senator from North Carolina speak impassionately on many an occasion on the constitutionality of various measures, and therefore it comes as something of a surprise to find the distinguished Senator at this time cavalierly ignoring at least six major constitutional questions.

I hate to think of his carrying with him a depleted, distorted, or ravished memory of the Constitution. I want him to be consistent with his long time advocacy—quite successful advocacy, I am glad to say—of the right of privacy.

I think that question exists, and could will be considered by the Judiciary Committee, of which he, the distinguished Senator from Nebraska (Mr. HRUSKA), and I are all members. This is a committee consisting of members who are versed in the Constitution, as distinguished from the Committee on Government Operations, which has eminently competent and able membership, but is not dedicated to this question, but rather the question of physical possession of documents in this instance.

The first question is, of course, that of separation of powers.

Mr. ERVIN. Mr. President, will the Senator yield to me, just to make a little observation at that point?

Mr. HUGH SCOTT. The Senator's observations are usually devastating to those who incautiously yield, but I will be glad to take the risk.

Mr. ERVIN. I would just like to tell the Senator that this bill I am advocating was unanimously reported by the Committee on Government Operations, and all of those who voted for it were lawyers except two—and pretty good lawyers, with the exception of myself.

Mr. HUGH SCOTT. That is the point I am making: not all of them are lawyers. Not all of them have customarily been expected to consider complex constitutional issues.

The Senator has fought vigorously for the doctrine of the separation of powers. He is aware that the ability of the Chief Executive was recognized in United States against Nixon to maintain in confidence those communications the disclosure of which would impair the function of the legislative branch.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HRUSKA. I yield 5 more minutes.

Mr. HUGH SCOTT. The letter from President Truman is especially cogent in support of this doctrine.

The question of eminent domain is one which the Judiciary Committee alone considered, so far as I am aware, in its legal aspects, and the execution of eminent domain here would seem to me to be unprecedented.

The first amendment rights are involved, the right to speak freely and candidly, which might be chilled if private conversations and communications are to be widely and indiscriminately published without court surveillance and approval.

The right to privacy, which the Senator from North Carolina (Mr. ERVIN) has so ably argued for during his service, his distinguished service, in the Senate, is involved because the forced publication leads to government invasion of thoughts and private conversations which they had expected to remain private; and I distinguish, of course, that from all matters involving the criminal and civil process.

I have said from the beginning that those matters ought to be made available; the courts have adjudicated these matters and no one now, I think, would argue otherwise.

The question of a bill of attainder is a very serious question since the action is directed against the papers of a single individual. We are showing no interest in releasing our own papers or in releasing the interesting documents of other Presidents which would relate, for example, to the Bay of Pigs, the Gulf of Tonkin resolution, the strange and curious case of the dog which did not bark in the night, and I refer to the Bobby Baker case where, by a straight party vote throughout in the committee and on the floor, a coverup was deliberately perpetrated, and disclosures were opposed by the very Senators who now argue for this measure in its present form. But then consistency is such a semiprecious stone or the hobgoblin of little minds, as Emerson noted, and so one does not expect consistency from ourselves when the purposes of proposed legislation would seem to interfere and impose an embarrassment to consistency.

Now, I cannot see why, if we are going to maintain a right of possession indefinitely and a right of property as to papers of one individual, we are so reluctant to give up ours. I will give mine up gladly. I was going to leave them to a university in a permanent library and without compensation, so far as I know. I will be dead and I will not be able to check that, Mr. President, but I have no idea or thought of compensation. I am simply going to leave the papers in the hope that somewhere, somehow I said something interesting sometime, or it may have contributed to history. I have some interesting documents from Presidents and princes and from paupers and politicians, and I have no desire to withhold this material from the views of those who believe that it would be historically useful.

I think it is rather amusing that Senators wish to invoke against others that which they do not invoke against themselves.

I think the fact that they do not want us to see the Bobby Baker case is rather interesting, or the Bay of Pigs or the Gulf of Tonkin. It seems that only the errors and mishaps and wrongdoings of an individual—undoubtedly correctly——

Mr. ERVIN. Mr. President, will the Senator yield to me?

Mr. HUGH SCOTT. I would again, at hazard to myself, pardon another interruption on the Senator's own time. I understand we are limited. That is all right.

Mr. ERVIN. If the Senator will introduce legislation to make public Bobby Baker's papers and the Bay of Pigs papers, I will cosponsor his bill.

Mr. HUGH SCOTT. But the Senator has already said he will not be here long enough to enable his committee or the Judiciary Committee to act on these matters. He has pleaded the shortage of time.

Mr. ERVIN. The Senator, under the Senate rules, can introduce such a bill and ask for its immediate consideration. If anybody objected, it would be on the calendar the next day, and I am going to be here tomorrow.

Mr. HUGH SCOTT. The distinguished Senator from North Carolina knows there are 1,001 ways in which legislation, which could be potentially embarrassing, will not be brought up. This legislation would require the consent of the Senators, and that would not be forthcoming.

Mr. ERVIN. Yes, I am getting an education on this by the motion to refer to the Judiciary Committee and also by the substitute.

Mr. HUGH SCOTT. I did not know that the Senator was capable of a further education, but I am delighted to find that he is and, therefore, if I can contribute some small job or tittle to the cerebrations of the distinguished Senator from North Carolina, let it be added to my memoirs, and let those also be donated freely and publicly to the public domain.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. HRUSKA. Mr. President, I yield 2 minutes.

Mr. HUGH SCOTT. Two minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. HUGH SCOTT. So, Mr. President, I summarize this way: The distinguished Senator from North Carolina naturally wants action on his bill, without hearings, without consideration, knowing well that his subject is a popular one, and knowing well that all of us share the desire to preserve and protect and defend the documentation here involved. I am distinctly against its destruction and will support any sort of legislation that will protect us in that regard.

At the same time, the Senator has obviously indicated that there must be—besides himself—many Senators who regard their right of privacy as superior to that of any former President; and who, second, do not want all Presidents treated equally.

My final vote will, I think, show my own true and dedicated views that this documentation must be kept available in the public domain and for public use, and their destruction must be avoided.

But this is a political measure brought at a political time for political purposes, and no amount of asseveration to the contrary will erase that motivation. So it is a motherhood issue. Most Senators are going to feel they have to vote for it because the prevention of the destruction of the papers is tied into a package of other matters. It is done without hearings, it is done without reference to the proper committee, and it is done, as I say, in a cavalier fashion because we, in the minority, are totally helpless to prevent this sort of thing.

We are rolled over as regularly as by the steamrollers along the highway, and we probably will be rolled over again. But I think it should be referred to the committee, with a time certain: bring it

back, let us vote on it before the session is over, and I suspect that whatever comes out of the Judiciary Committee we will all be glad to vote for.

Mr. President, with my best wishes to the distinguished Senator from North Carolina, I regret that his copy of the Constitution, which returns with him to his own State, as he pursues other pursuits with dignity, charm, and humor, will be tattered and dogeared by this last assault.

Mr. ERVIN. Just one moment.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I do, and then I shall yield to the Senator from Wisconsin.

If the constitutional views of my friends, the Senator from Pennsylvania and the Senator from Nebraska, prevail, the Constitution will be tattered and torn. I think it is a perfectly good instrument.

Now, on this letter of President Truman, as I recall, a subpena was issued to him after he left the office of the President by Congressman Velde of the House Un-American Activities Committee.

The subpena did not say what the committee wanted President Truman to testify about, but the Congressman issued statements to the press that he was going to cross-examine President Truman as to why he exercised his constitutional powers in the way he did rather than the way the Congressman thought he ought to have exercised them.

President Truman said he was not required to answer for the exercise of his constitutional powers.

This is an effort to reserve the record that a President made, which show an abuse of the Constitution and the failure to take care of the laws being faithfully executed. The tapes show criminal conspiracies on the part of his aides. Those are not constitutional acts.

Mr. HUGH SCOTT. Will the Senator yield for a clarification?

Mr. ERVIN. Yes, I would be glad to.

Mr. HUGH SCOTT. My comment is brief.

The Senator earlier said that he would gladly support a bill to make the Bobby Baker papers and information available. Does not the Senator recall that on every motion to uncover this coverup the Senator voted in favor of the coverup and against——

Mr. ERVIN. The Senator from Pennsylvania is stating—that is a——

Mr. HUGH SCOTT. Parliamentary language, please. [Laughter.]

Mr. ERVIN. There was a commentator who took handouts from the Republican National Committee, and he wrote a column to that effect.

The record shows I voted every time the question was up to have Bobby Baker investigated, and the only thing I voted against was an amendment to let one member of the committee determine what witnesses were to be summoned. It was a seven-man committee, and I voted against an amendment that would take the control of the committee out of the committee's hands and give it to a minority.

I voted to continue the investigation after it stopped, I voted to reopen it, and I never at any time voted against any proposition to keep Bobby Baker from being investigated.

He was investigated for 16 months and as a result of that investigation he was tried for a criminal offense, he was not only tried, he was sentenced to prison, and nobody gave him a pardon.

Mr. HUGH SCOTT. Finally, the Senator is admitting what I said, because the various items involved were the efforts of three minority members to persuade the four majority members to permit certain subpenas and the availability of certain information, including information held at the White House, and the Senator does say, while he attributes that to those Members of the minority, I was there, it was the movement of three Members, the whole minority, and the Senator rolled over us.

The PRESIDING OFFICER. Is the Senator from North Carolina yielding to the Senator from Pennsylvania?

Mr. HUGH SCOTT. That is all I have.

Mr. ERVIN. The resolution to investigate Bobby Baker was introduced by Senator John Williams of Delaware. I voted for it.

After the hearings had ceased, and there came some allegation of the connection between Bobby Baker and McCloskey, Democratic national chairman, as I recall, Senator MANSFIELD offered another resolution to reopen the investigation, and I voted for that.

After the investigation had been running for a year and the Committee on Ethics was set up, there was a motion to let that committee conduct the investigations. But the Ethics Committee was not organized, it did not have a staff, and I voted against that, to let it stay in the Rules Committee where it belonged.

There was another resolution to refer it to the Government Operations Committee for the Permanent Subcommittee on Investigations. Senator MCCLELLAN, the chairman of that committee, stood on the floor of the Senate and opposed that proposal. He said that he had too much to do already. I voted with Senator MCCLELLAN.

There was one amendment offered by Senator Curtis to compel the committee to call any witness that one member of the committee wanted called, even though the witness knew nothing about the matter investigated. I voted against that.

I also voted against the proposition to allow a minority of the committee to take control of the committee.

But I supported the investigation of Bobby Baker from the beginning to end.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from North Carolina yield to the Senator from Wisconsin?

Mr. ERVIN. Yes, sir, I yield.

Mr. NELSON. Five minutes?

Mr. ERVIN. I yield the Senator 5 minutes, or more if he wants it.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. NELSON. Mr. President, the distinguished minority leader stated that this bill was drafted and introduced and is being considered and pushed for purely political reasons.

This bill was drafted in my office. It never occurred to me that we would need a bill to deal with this issue, and I do not think it occured to anybody in Congress that it would be necessary to propose legislation to take jurisdiction over the tapes and papers relating to former President Nixon's tenure.

On September 8, there was announced an agreement between former President Nixon, the White House, and the General Services Administration. That agreement provides, among other things, that when the former President dies, the tapes are to be destroyed. That provision creates the emergency.

If the former President died tomorrow, all the tapes would be destroyed under that agreement.

Therefore, it is necessary to take legislative action. It is necessary to take it quickly; accordingly, we drafted this legislation between September 8 and September 18, which is as rapidly as we could carefully put together a bill. The distinguished Senator from North Carolina joined in this effort. Then we introduced a bill on September 18 to deal with a specific emergency.

I might say that everybody was quite shocked when the agreement was announced between the White House, General Services Administration, and former President Nixon.

It is critically important for historical purposes that those tapes be preserved. It is equally important to preserve the papers which under the agreement, can be destroyed after 1977. It is imperative that this country understand what went on, what acts were committed by the former President and high and powerful officials acting in their official capacity.

This country must understand what they did if we are going to be forewarned about future events and if we are going to be prepared to adopt the measures and the legislation necessary to stop future Watergates.

That is an emergency situation, that is why that bill is before us.

The idea that other Members of Congress and other public officials are not prepared to disclose their own papers, because they are not prepared to add that amendment to this bill, is nonsense.

I was Governor of my State for 4 years. All of my papers went to the State Historical Society. We did not claim, ask, or even think of taking any deduction for a tax deduction, if in fact they were worth any deduction.

All the Governors in our State have, as a matter of practice, turned over all their papers. I might say that my papers include all the correspondence between me and my constituents on all official business while I was a Governor of our State.

The argument that we should now throw on top of this bill an amendment to include every public official is simply a proposal by those who do not want this bill passed.

The matter of dealing with the question of public papers is important. The

Government Operations Committee, in their executive markup, all the members agreed, including the current chairman of that committee and the one who probably will be the next chairman, that that will be a first order of business next year. And if we want an early order of business we will be on the floor, we will offer amendments to be sure that all papers are covered.

But the factor that is critical to remember here is that this Nixon-White House agreement was signed. It shocked everybody because if the President died tomorrow the tapes can be all destroyed.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. NELSON. I yield to the Senator.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ERVIN. I yield the Senator 5 more minutes.

Mr. NELSON. I thank the Senator.

Mr. ERVIN. This agreement contains a clause and this agreement was made by Mr. Sampson, the Administrator of General Services, and former President Nixon; was it not?

Mr. NELSON. Yes, that is correct.

Mr. ERVIN. And the agreement was made in secret?

Mr. NELSON. The Senator is correct.

Mr. ERVIN. And there were no hearings on it?

Mr. NELSON. That is correct.

Mr. ERVIN. And nobody knew anything about it until the agreement was announced.

Mr. NELSON. That is correct.

Mr. ERVIN. Section 8 of this agreement reads as follows:

> The tape recordings of conversations in the White House and the Executive Office Building which will be deposited pursuant to this instrument shall remain on deposit until September 1, 1979.

In other words, they are not to be used until September 1, 1979, by anybody.

Mr. Nixon said:

> I intend to and do hereby donate to the United States, such gift to be effective September 1, 1979, all of the tape recordings of conversations in the White House and Executive Office Building conditioned, however, on my continuing right of access as specified in paragraph 9 here of and on the further condition that such tapes shall be destroyed at the time of my death or on September 1, 1984, whichever event shall first occur.

I invite the Senator's attention to the next sentence:

> Subsequent to September 1, 1979 the Administrator shall destroy such tapes as I may direct.

Does this mean in plain English that the Administrator agreed that the former President would control these tapes until September 1, 1979?

Mr. NELSON. That is correct.

Mr. ERVIN. If the President died prior to that time, the tapes would all be destroyed. After that date arrives, September 1, 1979, when the donation became effective, the effect of the donation could be destroyed because it provided that after they became the property of the United States the Administrator would destroy any of the tapes that the President directed him to destroy.

Mr. NELSON. That is correct.

Mr. ERVIN. And this was the document giving President Nixon the right to have these tapes destroyed that required speedy action.

Mr. NELSON. That is correct. If there had been hearings and careful consideration, if there had been an opportunity for consideration of this, we would not have been required to introduce a bill in an emergency situation to preserve critically important historical documents. That urgency was not created by the Congress; it was created by an agreement signed between GSA and the former President.

Mr. ERVIN. And the man who made the agreement with the former President was a man who had been appointed to his office by the former President, was he not?

Mr. NELSON. That is correct.

Mr. ERVIN. The Scriptures tell us old Nicodemus traveled by night, and this agreement was made under that same kind of circumstances; was it not?

Mr. NELSON. Yes.

I might say to the Senator this might very well be an appropriate place in the RECORD to reprint again the whole substance of the agreement, unless it has been put into today's RECORD. Some people might be fooled by the arguments on the other side that this bill is unfair, that this is precipitous action, that this is action that is not necessary at this time; that we ought to send it back for extensive hearings.

They may not understand the urgency of the situation that if the President dies, the tapes will be destroyed.

Mr. President, I ask unanimous consent that the agreement reached, dated September 6, 1974, entitled "Text of a letter from Richard Nixon to Arthur Sampson, Administrator, General Services Administration," signed by Richard Nixon and signed and accepted by Arthur F. Sampson, Administrator of the General Services Administration, be printed in full in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

TEXT OF A LETTER FROM RICHARD NIXON TO ARTHUR F. SAMPSON, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION

SEPTEMBER 6, 1974.

HON. ARTHUR F. SAMPSON,
Administrator, General Services Administration, Washington, D.C.

DEAR MR. SAMPSON: In keeping with the tradition established by other former Presidents, it is my desire to donate to the United States, at a future date, a substantial portion of my Presidential materials which are of historical value to our Country. In donating these Presidential materials to the United States, it will be my desire that they be made available, with appropriate restrictions for research and study.

In the interim, so that my materials may be preserved, I offer to transfer to the Administrator of General Services (the "Administrator"), for deposit, pursuant to 44 U.S.C. Section 2101, *et seq.*, all of my Presidential historical materials as defined in 44 U.S.C. Section 2101 (hereinafter "Materials"), which are located within the metropolitan area of the District of Columbia, subject to the following:

1. The Administrator agrees to accept solely for the purpose of deposit the transfer of the Materials, and in so accepting the Materials agrees to abide by each of the terms and conditions contained herein.

2. In the event of my death prior to the expiration of the three-year time period established in paragraph 7A hereof, the terms and conditions contained herein shall be binding upon and inure to the benefit of the executor of my estate for the duration of said period.

3. I retain all legal and equitable title to the Materials, including all literary property rights.

4. The Materials shall, upon acceptance of this offer by the Administrator, be deposited temporarily in an existing facility belonging to the United States, located within the State of California near my present residence. The Materials shall remain deposited in the temporary California facility until such time as there may be established, with my approval, a permanent Presidential archival depository as provided for in 44 U.S.C. Section 2108.

5. The Administrator shall provide in such temporary depository and in any permanent Presidential archival depository reasonable office space for my personal use in accordance with 44 U.S.C. Section 2108(f). The Materials in their entirety shall be deposited within such office space in the manner described in paragraph 6 hereof.

6. Within both the temporary and any permanent Presidential archival depository, all of the Materials shall be placed within secure storage areas to which access can be gained only by use of two keys. One key, essential for access, shall be given to me alone as custodian of the Materials. The other key may be duplicated and entrusted by you to the Archivist of the United States or to members of his staff.

7. Access to the Materials within the secure areas, with the exception of recordings of conversations in the White House and the Executive Office Building which are governed by paragraphs 8 and 9 hereof, shall be as follows:

A. For a period of three years from the date of this instrument, I agree not to withdraw from deposit any originals of the Materials, except as provided in subparagraph B below and paragraph 10 herein. During said three-year period, I may make reproductions of any of the originals of the Materials and withdraw from deposit such reproductions for any use I may deem appropriate. Except as provided in subparagraph B below, access to the Materials shall be limited to myself, and to such persons as I may authorize from time to time in writing, the scope of such access to be set forth by me in each said written authorization. Any request for access to the Materials made to the Administrator, the Archivist of the United States or any member of their staffs be referred to me. After three years I shall have the right to withdraw from deposit without formality any or all of the Materials to which this paragraph applies and to retain such withdrawn Materials for any purpose or use I may deem appropriate, including but not limited to reproduction, examination, publication or display by myself or by anyone else I may approve.

B. In the event that production of the Materials or any portion thereof is demanded by a subpoena or other order directed to any official or employee of the United States, the recipient of the subpoena or order shall immediately notify me so that I may respond thereto, as the owner and custodian of the Materials, with sole right and power of access thereto and, if appropriate, assert any privilege or defense I may have. Prior to any such production, I shall inform the United States so it may inspect the subpoenaed materials and determine whether to object to its production on grounds of national security or any other privilege.

8. The tape recordings of conversations in the White House and Executive Office Building which will be deposited pursuant to this instrument shall remain on deposit until September 1, 1979. I intend to and do hereby donate to the United States, such gift to be effective September 1, 1979, all of the tape recordings of conversations in the White House and Executive Office Building conditioned however on my continuing right or access as specified in paragraph 9 hereof and on the further condition that such tapes shall be destroyed at the time of my death or on September 1, 1984, whichever event shall first occur. Subsequent to September 1, 1979 the Administrator shall destroy such tapes as I may direct. I impose this restriction as other Presidents have before me to guard against the possibility of the tapes being used to injure, embarrass, or harass any person and properly to safeguard the interests of the United States.

9. Access to recordings of conversations in the White House and Executive Office Building within the secure areas shall be restricted as follows:

A. I agree not to withdraw from deposit any originals of the Materials, except as provided in subparagraph B and paragraph 10 below, and no reproductions shall be made unless there is mutual agreement. Access to the tapes shall be limited to myself, and to such persons as I may authorize from time to time in writing, the scope of such access to be set forth by me in each said written authorization. No person may listen to such tapes without my written prior approval. I reserve to myself such literary use of the Information on the tapes.

B. In the event that production of the Materials or any portion thereof is demanded by a subpoena or other order directed to any official or employee of the United States, the recipient of the subpoena or order shall immediately notify me so that I may respond thereto, as the owner and custodian of the Materials, with sole right and power of access thereto and, if appropriate, assert any privilege or defense I may have. Prior to any such production, I shall inform the United States so it may inspect the subpoenaed materials and determine whether to object to its production on grounds of national security or any other privilege.

10. The Administrator shall arrange and be responsible for the reasonable protection of the Materials from loss, destruction or access by unauthorized persons, and may upon receipt of any appropriate written authorization from the Counsel to the President provide for a temporary re-deposit of certain of the Materials to a location other than the existing facility described in paragraph 4 herein, provided however that no dimunition of the Administrator's responsibility to protect and secure the Materials from loss, destruction, unauthorized copying or access by unauthorized persons is affected by said temporary re-deposit.

11. From time to time as I deem appropriate, I intend to donate to the United States certain portions of the Materials deposited with the Administrator pursuant to this agreement, such donations to be accompanied by appropriate restrictions as authorized by 44 U.S.C. Section 2107. However, prior to such donation, it will be necessary to review the Materials to determine which of them should be subject to restriction, and the nature of the restrictions to be imposed. This review will require a meticulous, thorough, time-consuming analysis. If necessary to fulfill this task, I will request that you designate certain members of the Archivist's staff to assist in this review under my direction.

If you determine that the terms and conditions set forth above are acceptable for the purpose of governing the establishment and maintenance of a depository of the Materials pursuant to 44 U.S.C. Section 2101 and for accepting the irrevocable gift of recordings of conversations after the specified five year period for purposes as contained in paragraph 8 herein, please indicate your acceptance by signing the enclosed copy of this letter and returning it to me. Upon your acceptance we both shall be bound by the terms of this agreement.

Sincerely,

(S) RICHARD NIXON.

Accepted by: Arthur F. Sampson, Administrator, General Services Administration, 9/7/74.

(S) ARTHUR F. SAMPSON.

Mr. ERVIN. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ERVIN. I yield the Senator an additional 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. ERVIN. I would like to ask the Senator if an argument cannot be made that the agreement is, in effect, an agreement to destroy evidence of criminal actions and, therefore, may constitute a conspiracy to obstruct justice.

Mr. NELSON. If, in fact, that was the agreement, it would—and I think that is the agreement.

Mr. President, constitutional questions have been raised. I think the point ought to be made absolutely clear that this bill does not address itself to the question of who owns these tapes and these papers. We do not attempt in this legislation to determine that, as a legislative matter.

Former President Nixon is entitled under the law to all the tapes and all the papers, or part of the tapes and part of the papers, or none of the tapes and none of the papers, as a matter of law, and that issue has to be settled, when raised before the Supreme Court.

This bill provides an expedited procedure to test any question of the invasion of anybody's rights. It allows the former President to raise executive privilege. It requires a three-judge circuit court to have the matter treated as a priority issue, and then appeal to the Supreme Court. This bill is neutral on the issue of who owns these tapes and papers.

It simply provides that they may not be destroyed, and it provides a method of protecting them. It provides the procedures for protecting the rights of privacy, and not interfering in any way with the criminal trials that are occurring.

It provides a procedure for setting up rules, to come to the Congress and be approved or disapproved by the Congress as to the question of access to the tapes and to the papers.

So it is a very carefully drafted bill that does not in any way attempt to abrogate anybody's rights, which we could not do by statute anyway.

Constitutional questions have been raised again, again, and again, on due process, ex post facto laws, bills of attainder. All these various questions have been raised here on the floor, asserting that this bill violates constitutional rights; it does not violate constitutional rights. It does not attempt to settle anybody's rights, the Government's or the former President's.

We asked the Library of Congress to brief carefully all of these issues. The American Law Division of the Library of Congress made an analysis of S. 4016, the Presidential Recordings and Materials Preservation Act. That opinion was placed in the RECORD yesterday.

Obviously, some of the Members did not read the RECORD yesterday, or the opinion.

Mr. President, I think it ought to be inserted again in this RECORD so there will be an opportunity for everybody who did not see it in yesterday's RECORD to see it in today's, and to see that all of these arguments are effectively and concisely refuted by the American Law Division of the Library of Congress.

Mr. President, I ask unanimous consent that this brief on these issues by the American Law Division be printed in the RECORD at this point.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., October 3, 1974.

To: Hon. Gaylord Nelson. Attn: Lew Paper.
From: American Law Division.
Subject: Analysis of S. 4016, Presidential Recordings and Materials Preservations Act.

At the request of your staff, we are sending the enclosed report analyzing the provisions of S. 4016.

VINCENT E. TREACY,
Legislative Attorney.

CONSTITUTIONAL QUESTIONS RAISED BY S. 4016, A BILL TO PROTECT AND PRESERVE TAPE RECORDINGS OF CONVERSATIONS OF FORMER PRESIDENT NIXON

"Presidential Recordings and Materials Preservation Act", S. 4016, 93d Congress, 2d Session, introduced on September 18, 1974, is designed to protect and preserve the tape recordings of conversations of former President Richard M. Nixon made during his tenure as President. To summarize briefly, the bill would direct the Administrator of General Services to obtain, or, as the case may be, retain, all of the tapes which meet the description set forth in the bill, and all the historical materials associated with the Nixon Presidency. Destruction of the tapes and historical materials would be prohibited, except as provided by Congress. The Administrator is to issue regulations governing access to the tape recordings and historical materials, including national security safeguards and curbs on pre-trial publicity.

The bill recognizes the possibility that the tapes and materials affected may be personal property and therefore authorizes just compensation to be paid in an amount adjudged by a Federal court of competent jurisdiction. The bill also establishes Federal court jurisdiction for challenges to the legal or constitutional validity of its provisions.

Numerous objections can be raised against the bill: 1) that it operates retroactively in possible violation of the *ex post facto* Clause of the Constitution; 2) that it applies to one named individual in violation of the Bill of Attainder Clause; 3) that it supersedes the Nixon-Sampson Agreement of September 6, 1974, in violation of the Obligation of Contracts Clause; 4) that it takes private property for a public use without due process or just compensation in violation of the Fifth Amendment.

Dealing with these issues in turn, we turn first to the problem of retroactivity. The Constitution provides, in Article I, Section 9, Clause 3, that no *ex post facto* law shall be passed by Congress. The Supreme Court held in an early case that this clause is applicable only to criminal or penal statutes, and is in-

applicable to other kinds of retroactive legislation. *Calder* v. *Ball*, 3 Dall. (3 U.S.) 386, 393 (1798). This clause prohibits statutes which render criminal an act which was innocent at the time it occurred, or which increase the punishment for an act. The proposed bill does not provide criminal penalties, nor attach punishment to any past acts. It therefore does not appear to violate the *ex post facto* clause.

The second objection is to the specification of former President Nixon by name. Article I, Section 9, Clause 3, also provides that no Bill of Attainder may be enacted by Congress. This clause prohibits Congress from inflicting punishment on any person or upon an easily ascertainable group or class of persons. Under this clause, the Supreme Court has struck down statutes which barred Communists from holding office or employment with labor unions, *United States* v. *Brown*, 381 U.S. 437 (1965); which forbade use of appropriated funds to pay three allegedly subversive Government employees, *United States* v. *Lovett*, 328 U.S. 303 (1946); or which required attorneys, as a condition to the practice of law, to take an oath that they did not take part in the rebellion of the Confederacy during the Civil War, *Ex parte Garland*, 4 Wall (71 U.S.) 333 (1867).

As in the case of the *ex post facto* objections, because the proposed bill does not impose criminal penalties or other punishment, it would not appear to violate the Bill of Attainder Clause.

The third objection arises from the provision of Article I, Section 10, Clause 1, that no state shall pass any law impairing the obligation of contracts. By its terms, this clause does not prohibit the Congress, as distinguished from the states, from impairing the obligation of contracts. *Continental Bank* v. *Chicago, R.I. & P. Ry. Co.*, 294 U.S. 648, 680 (1935). From an early date, the Supreme Court has read this limitation into the Fifth Amendment, holding that Congress cannot pass a law that destroys or impairs the lawful private contracts of citizens. *Calder* v. *Bull*, 3 Dall (3 U.S.) 386, 388 (1798). This principle is limited, however, to acts which operate directly to impair contracts; Congress has authority to pass legislation pertinent to any of the powers conferred on it by the Constitution, even though the legislation operates collaterally or incidentally to impair or destroy the obligation of private contracts. *Continental Bank* v. *Chicago R.I. & P. Ry. Co.*, 294 U.S. 648, 680 (1935).

While the right to sue for the enforcement of contracts between individuals and corporations cannot be taken away, a different rule prevails with respect to contracts of sovereigns. Contracts between the nation and an individual are only binding on the conscience of the sovereign and have no pretensions to compulsive force. *Lynch* v. *United States*, 292 U.S. 571, 580–81 (1934), quoting Alexander Hamilton, *The Federalist*, No. 81. Thus, a law which takes away the right to sue the United States on a contract does not impair the obligation of contracts, since the United States may not be sued without its consent.

In the light of the above principles, the proposed bills would not impair the obligation of contracts with respect to the agreement entered into by Mr. Nixon and the General Services Administration. The bill would represent an action of Congress, within its inherent sovereign power of eminent domain, to protect and preserve materials in the public interest. Its effect on the Nixon-Sampson Agreement would be incidental and collateral, not direct. To the extent that property rights are embodied in that agreement, any objection must be grounded on the Fifth Amendment rather than on the Obligations of Contract Clause. It is therefore necessary to turn to the Fifth Amendments issues raised by the fourth objection to the bill.

A valid contract with the United States is property, and the rights against the United States arising out of such a contract are protected by the Fifth Amendment; the Due Process Clause prohibits the United States from annulling these rights unless such action falls within the Federal police power or some other paramount power, *Lynch* v. *United States*, (292 U.S. 571, 579 (1934)). Moreover, such property may not be taken without just compensation. Furthermore, there is strong, if not conclusive, legal support for the principle that the papers, tapes and other historical materials of a President are his personal property. See, *e.g.*, Legal Opinion of Attorney General Saxbe, Sept. 6, 1974, reprinted in CONGRESSIONAL RECORD, September 16, 1974, page. 31176.

Accordingly, it is important to determine if the provisions of S. 4016 afford adequate protection for whatever property rights that former President Nixon may have, whether these property rights are found in the papers themselves or in the Nixon-Sampson Agreement concerning storage and disposition of the papers.

In this respect, the proposed bill would appear to afford adequate protection to President Nixon's property rights. Provision is made for a judicial determination of his property rights, and funds are authorized to be appropriated to pay just compensation in the amount which a court of competent jurisdiction adjudges. By using the constitutional term "just compensation," the bill leaves no doubt that Mr. Nixon is to be accorded a full and fair compensation for the impairment of his property rights. To the extent that the Sampson-Nixon Agreement embodies contractual property rights running to Mr. Nixon, the just compensation provisions would apply to any impairment of those rights.

Finally, it would appear that the court proceedings provided in the bill would accord sufficient procedural due process. It can be assumed that the court determination of the amount of compensation due to Mr. Nixon would be made after full hearing on the evidence as to the value of the materials. Proposed amendments to the bill would direct the Administrator of General Services to issue regulations governing claims of privilege, such as the Executive or Presidential privilege established in *United States* v. *Nixon* (U.S. Sup. Ct. No. 73–1766, July 24, 1974). And the bill provides expedited treatment for all legal and constitutional challenges to its provisions, by expressly granting jurisdiction to the U.S. District Court for the District of Columbia.

VINCENT E. TREACY,
Legislative Attorney, American Law Division.
OCTOBER 3, 1974.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. NELSON. Then I do not have to yield back the remainder of my time.

Mr. HRUSKA. Mr. President, I yield 10 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I oppose the bill that is presently before the Senate. S. 4016 was reported by the Government Operations Committee several days after being introduced. No hearings were held, yet the bill was completely rewritten. In view of the serious constitutional implications contained in this bill, I urge that it be referred to the Judiciary Committee where hearings may be held on its various provisions.

RIGHT OF PRIVACY

Section 6 of S. 4016 would result in an abridgment of the constitutionally guaranteed right of privacy with respect to all persons whose conversations were the subject of the tape recordings to be condemned and made public by this bill.

The courts of the United States have recognized a right to privacy in the first, fourth, fifth, and ninth amendments to the Constitution.

The scope of this right of privacy and the effect upon this right by S. 4016 was succinctly stated in a memorandum placed in the RECORD of October 2, 1974, by the distinguished minority leader, Senator HUGH SCOTT:

In *Boyd* v. *United States*, supra, the Court gave a sweeping definition of the protection afforded under the combined coverage of the Fourth and Fifth Amendments which it derived from the discussion by Lord Camden in *Entick* v. *Carrington and Three Other King's Messengers*, 19 Howell's State Trials 1026 (1765):

"The principles laid down in this opinion affect the very essence of constitutional liberty and security. They reach farther than the concrete form of the case there before the court with its advantitious circumstances; *they apply to all invasions on the part of the government and its employes of the sanctity of a man's home and the privacies of life.* It is not the breaking of his doors, and the rummaging of his drawers, that constitutes the essence of the offense; but *it is the invasion of his indefeasible right of personal security, personal liberty and private property*, where that right has not been forfeited by his conviction of some public offense—it is the invasion of his sacred right which underlies and constitutes the essence of Lord Camden's judgment. Breaking into a house and opening boxes and drawers are circumstances of aggravation; but *any forcible and compulsory extortion of a man's own testimony or of his private papers to be used as evidence to convict him of crime or to forfeit his goods, is within the condemnation of that judgment.* In this regard the Fourth and Fifth Amendments run almost into each other." 116 U.S. at 630 (emphasis added).

The making public of the taped conversations of men who believed their confidences were secure would also be a "forcible and compulsory extortion of a man's own testimony", and equally abhorrent to the principles of the Fourth and Fifth Amendments.

The bill's forced disclosure of the tapes dictates another "invasion on the part of the government" into "the privacies of life." The essence of the passage quoted above is that the Fourth and Fifth Amendments protect privacy, and it is the unwarranted interference with that privacy which constitutes the gravamen of the offense, not the particular manner in which the invasion is accomplished or the form in which the privacy interest appears. It would be equally abhorrent for the Congress to order a general invasion of the privacy of the conversations of persons in the executive offices as it was for the King's Messengers, utilizing a general warrant to invade the privacy of a man's home.

EXECUTIVE PRIVILEGE

In United States against Nixon, the Supreme Court of the United States unanimously recognized the existence of a constitutionally based Executive privilege. The Court stated that Presidential communications were "presumptively privileged."

Mr. President, the Supreme Court has recognized the need for frank discussion which must not be inhibited due to a need for honest, frank, policymaking discussions. This need for executive privilege extends to both sitting Presidents and former Presidents. This was

well stated in Senator SCOTT's memorandum:

C. FORMER PRESIDENTS' RIGHTS TO INVOKE EXECUTIVE PRIVILEGE

The question may be raised whether a former President has the authority to invoke Executive Privilege for materials generated during his presidency, but the rationale behind Executive Privilege and the interest it serves compels the answers that a former President may indeed invoke Executive Privilege in the same manner as a sitting President. This is so because the public interest in the confidentiality of executive discussions requires that those discussions remain confidential indefinitely, not to be publicized as soon as the President leaves office, for if these discussions were to become public after the President leaves office, future discussions with future Presidents would ever after be chilled by the knowledge that within at least eight years those discussions could be public.

EMINENT DOMAIN

Mr. President, for private property to be taken by the Government under the power of eminent domain, the condemnation must be for a public use. I question the "public use" in taking custody of every piece of paper in former President Nixon's files accumulated during his entire Presidency. Senator SCOTT's memorandum identifies this problem:

Clearly the most personal papers of former President Nixon would not be necessary for any legitimate public use, for Presidential "historical material," as defined by 44 U.S.C. § 2101, would include not only official papers, but Christmas cards, personal letters, personal diaries, etc. Therefore, because all tapes and all Presidential historical materials are condemned by S. 4016, it would seem that the power of eminent domain is being used here, at least in part, for other than a public use. This threatens the constitutionality of the whole bill despite the fact that the proposal contains the customary severability clause. To cure this deficiency it would appear that the condemnation of Presidential materials and tapes must be limited to those particular materials which are necessary for some specific reason.

Senator HRUSKA also addressed the issue of eminent domain in his memorandum placed in the CONGRESSIONAL RECORD on October 3, 1974:

While it is clear that the Government can take real property and personal property, it is unclear whether it can take literary or intellectual property—the personal papers of an individual, his innermost thoughts. The extent and nature of this exercise of eminent domain appears to be unprecedented. A step by the Government to appropriate an individual's personal papers, his thoughts and ideas, contemplates not only a novel exercise of eminent domain but also an invasion of privacy and an infringement of the First Amendment.

IN CAMERA INSPECTION

Mr. President, S. 4016 violates the principle of in camera inspection required by the Supreme Court in the case of United States against Nixon. The Court recognized that the claim of Executive privilege might be defeated if the evidence contained in the documents sought to be kept secret was determined to be relevant to a judicial proceeding such as a criminal trial. However, this determination was to be made after an in camera inspection of the document in question.

S. 4016 would, in effect, reverse the constitutionally based requirement for in camera inspection enumerated in United States against Nixon by making all Presidential material, subpened or otherwise, available for public scrutiny.

Mr. President, in view of the serious constitutional problems raised by this bill, I strongly urge that S. 4016 be referred to the Senate Judiciary Committee for hearings and further study.

I would like to quote a statement which Senator HRUSKA made on the Senate floor yesterday:

Each of us has taken an oath to uphold and support the Constitution. To be responsible legislators, we must examine a bill very carefully to determine that it passes constitutional muster. We cannot pass a bill with a number of constitutional issues unresolved and then expect the individuals affected to spend a great deal of time and money in court attempting to vindicate their rights. Such a course is not only unwise; it is irresponsible.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. HRUSKA. I yield the Senator 2 additional minutes.

Mr. THURMOND. Mr. President, I am amazed that a bill of this nature would be brought before the Senate. It looks like a personal vendetta against former President Richard Nixon.

When people went to the White House to talk to the President of the United States, during the time that President Nixon was President, such as the Shah of Iran, the Prime Minister of Great Britain, the Prime Minister of Egypt, and other people, certainly they felt that their conversations and their discussions were private.

They felt that what they were saying there was in the best interest of their country and ours in their relations. If they had known that what they were saying was later going to be made public, or was going to be published to the world, they would have realized that some of their statements might cause tremendous repercussions in the relations of their respective countries, not only with this country but with the various countries and nations of the world.

To me, it is reprehensible to say that we now have to expose every personal conversation, that we have to expose every discussion that the President of the United States had with the heads of the nations throughout the world, and that we have to expose every intimate conversation that the President had with his family or with his staff members.

I call my staff into my office to get their views, and they would not be free to talk if they felt that later, everything they said to me was going to be published to the world. Certainly, President Nixon's staff members would not have felt free to talk to him if they felt that everything they said and recommended was going to be made public to the entire world.

Mr. President, this bill should be referred to the Committee on the Judiciary, and I hope it will.

In closing, I ask unanimous consent that a letter to me, dated October 2, 1972, from Ruth Merkin of Yonkers, N.Y., follow my remarks in the RECORD. I feel it contains some thoughts that my colleagues should have the benefit of reading.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

YONKERS, N.Y., *October 2, 1974.*

Hon. STROM THURMOND,
U. S. Senate, Washington, D.C.

DEAR SIR: How far will injustice—indeed, outright illegality—be allowed to go in this country?

Several weeks ago a proper and legal agreement was reached between the Executive branch and our former President as to disposition of Richard Nixon's presidential documents. This agreement was made in full accordance with the law of 200 years of tradition. In addition, there is great wisdom in such an agreement in that the former President can make the best use of such documents for literary purposes, thereby adding immeasurably to the historical knowledge and wealth of our country.

Richard Nixon's presidency, in spite of the hate and insanity of our times, was among the greatest in our nation's history. His abilities as a writer are proven and to cripple him by denying ready and easy access to his own presidential documents is equivalent to deliberately and maliciously destroying our former President and leaving unwritten some of our country's greatest history by one uniquely qualified to do so. It is also the right of any individual to do what he sees fit with personal conversations and documents, a right that suddenly applies so strongly to anyone but President Nixon.

What is the supreme outrage, and both improper and illegal, is to attempt to retroactively nullify a proper and legal agreement through political, vendetta legislation. This is an outrage which must not be allowed to take place if we are to retain even the semblance of a nation governed by laws or a people of honor.

Sincerely yours,

RUTH MERKIN.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, I yield myself such time as I may use on this occasion.

This measure will not take the private papers of President Nixon, Mr. President. As amended, it provides that Mr. Sampson or his successor in the office of Administrator of the General Services Administration shall adopt regulations which will take into account, first, "the need to provide the public with the full truth at the earliest reasonable date of the abuses of governmental power popularly identified under the generic term 'Watergate'."

Then it says that he shall adopt a regulation under No. 6, "the need to prevent unrestricted access to tape recordings and other materials which are unrelated to the need identified in paragraph (1) above."

That says that there shall not be unrestricted access if the regulations apply to the provisions of the bill.

Then it is stated that the regulation shall provide for "the need to give Richard M. Nixon, or his heirs, for his sole custody and use, tape recordings and other materials which are unrelated to the need identified in paragraph (1) above, and are not otherwise of historical significance."

So there is going to be no unrestricted access. The only things they are going to keep would be the tapes relating to the abuses of governmental power known as

the Watergate, and matters of historical significance.

I was very much intrigued by the argument of my good friend from South Carolina about the alleged proposal to make public the conversations between the President of the United States and the Shah of Araby, or somewhere.

Mr. THURMOND. Iran.

Mr. ERVIN. The Shah of Iran or Araby, or somewhere. None will be made public under those regulations, because they had no discussions of governmental abuse. They never discussed that with the President, I assume.

The thing I wonder is, why did the President want to tape those things? Why did he want to tape those conversations in which he said to Haldeman, "Magruder is supposed to lie like hell for us"?

Why did he tape those things where he told Dean to see that hush money was paid without delay to Hunt?

He did not tell the Shah of Iraq or Iran that he was taping the conversations. Nobody knew that he was taping the conversations except the President, Haldeman, Butterfield—who installed these tape machines at his direction—Higby, and the Secret Service men. Nobody else on earth knew about it.

In one of the tapes, the President instructed Haldeman, in the conversation where he said that "Magruder is supposed to lie like hell for us," not even to let Ehrlichman know about the tapes. So even Ehrlichman did not know.

We are not going to expose, under this bill, the conversations that occurred between the President and the Shah of Iran. They are not to be made public, because they have no relation to Watergate. I do not see why—Mr. Butterfield said that the President told him, when he told him to set up these tape recording machines, that he was bugging for history. Surely, we are not to have them destroyed now, when he had been bugging for history.

Nobody's right is affected by this bill, because it provides, as far as privacy is concerned, that the regulations of the Administrator shall take into account the following factors: The need to protect any party's opportunity to assert any legally or constitutionally based right which would prevent or otherwise limit access to the tape recordings and other materials.

That not only protects the Shah of Iraq or Iran, it protects the right of every one of the 220 million men, women, and children in the United States. There is no constitutional affront by the original bill given to anybody.

You know, the Government has not been held in too high esteem by the American people. If we pass the substitute which says that the Government is going to take over all of the papers, including all of the letters, of Senators and Representatives which they retain at the end of the term, some people are going to suspect that we are trying to pass a bill to allow all Senators and Congressmen to gouge the taxpayers under the power of eminent domain. I do not think that is going to help the standing of Congress in this country, especially at a time when taxpayers are already harassed by so many demands, without adding this demand to make it possible. If there is no other reason why the substitute ought to be defeated, it is that provision.

Mr. HRUSKA. Mr. President, I yield myself 5 minutes.

Mr. President, the argument is made and the view has been expressed that the imminent danger which is referred to in the committee's report, which imperils the whole Nation and the public, and the right of the public to know, and perhaps the political sensitivity of a lot of people who want to know, lies in the fact that if the President should die, the papers would be immediately destroyed. They would not be destroyed without the use of the key in the hands of the Government, the Administrator of the GSA, which would be necessary to gain control and access to those papers.

If that unhappy event were to occur, there would be ample time at that time to take such steps as would be necessary either by legislation or injunctive proceedings. But, Mr. President, if that were the sole objective of the bill, why not limit this measure to that danger, and then go about our business, in the regular way, of legislating the other provisions of the bill in an orderly process? It is very simple.

I propose, and shall send to the desk as soon as a copy of it is made, an amendment which would achieve that very purpose. It is very simple, Mr. President. We would strike the letter (a) on page 4, line 25, and strike subsection 3(b) and sections 5 and 6. Then the bill would provide and read that—

None of the tape recordings, or other materials, referred to in section 2 above shall be destroyed except as may be provided by Congress.

Then all these other things which are provided in the bill in the present subsection 3(b) and in sections 5 and 6 would be deleted, and the imminent danger will be amply taken care of. In due time, I shall call up the amendment and we will see whether the objective of overcoming an imminent danger is the objective of this bill, or whether it goes farther than that, on the basis of certainly inadequate legislative processing.

It has been suggested that the agreement between Mr. Nixon and Mr. Sampson was worked out by the dark of the Moon, and with something wicked and ulterior about it.

Let me suggest, Mr. President, that we have before us a bill and a report that were also developed and processed by the dark of the Moon—the same dark of the same Moon—because they were developed in executive sessions of the Government Operations Committee, and it was not until Monday of this week that the Members of the Senate had access to the bill and to the report. And then there were a number of amendments to the bill offered by the sponsors just yesterday.

Is a document which was drafted and executed pursuant to the Presidential Papers Act of 1968—an agreement drawn pursuant to that Act between the General Services Administrator, who is the authorized representative of the government, and the principal, to wit, the former President, to be suspect because it was prepared, negotiated, and executed pursuant to the Presidential Papers Act? I cannot read that into the picture. I cannot do so at all.

It is not to be inferred that it was something secret. It was no more secret than the negotiations on the bill and the report by the Committee on Government Operations when they reported this legislation. It was not an agreement the Congress would have, under the present law, any right to get into or be consulted on.

We can get to the point. Let us put this agreement to the test of hearings. Let us see if the imminent danger cannot be removed, if such dangers exist. I do not believe there are any, but if there are, and that is what caused this legislation to be proposed, then here is a chance to correct them.

The issue, again, has been brought up that the ownership of the property is amply provided for, because there is an expedited procedure, exclusive purisdiction in the District of Columbia, with rapid expedited appeal to the Supreme Court to litigate the question of ownership. There is no precedent to the contrary. These Presidential papers belong to the President.

All S. 4016 does, which is put so blandly and seductively in the language of those who speak to the point, is offer a polite invitation to the former President to be subjected to the terms of this bill. If he wishes to litigate it, he may do so. All it would take is several hundred thousand dollars and a lot of time and a lot of effort; to prove what? To afford the opportunity to try to disprove a situation about which there is no controversy, and that is that there is ownership in the former President.

There is no question about it. There is not a single precedent to the contrary, none. That is about as solid a situation as we can get.

The burden should be on Congress and it should meet its burden by refraining from interfering with that type of ownership without complying with and taking into consideration the other constitutional rights and objections which exist.

If I have any remaining time, I reserve it.

Mr. ERVIN. Mr. President, I yield myself such time as I may use.

This is a most peculiar document relating to tapes which, by all of the available testimony taken by the Senate Select Committee, by the House Judiciary Committee, and by the courts in the trials, and assembled by the Special Prosecutor, contain evidence of criminal acts.

Here is what it says:

6. Within both the temporary and any permanent Presidential archival depository, all of the Materials shall be placed within secure storage areas to which access can be gained only by use of two keys.

That is forever.

One key, essential for access, shall be given to me alone as custodian of the Materials. The other key may be duplicated and entrusted by you to the Archivist of the United States or to members of his staff.

Just two keys, one of them held by our former President, who is to be the cus-

todian of the documents until September 1, 1979, and the other key to be held by the Archivist of the United States, a subordinate of Mr. Sampson whose staff is under Mr. Sampson's direction. No one else; none of the 220 million men, women, and children of the United States, including the Special Prosecutor in the cases now going on, will have access to them.

My friend from Nebraska said it would not require the tapes to be destroyed. I read again. The former President shall be custodian of the tapes until September 1, 1979, with nobody else having access to them unless he is willing to give it to them, because it takes both keys to unlock the place where the tapes and materials are to be stored. Then it says:

The tape recordings of conversations in the White House and Executive Office Building which will be deposited pursuant to this instrument shall remain on deposit until September 1, 1979. I intend to and do hereby donate to the United States, such gift to be effective September 1, 1979, all of the tape recordings of conversations in the White House and Executive Office Building conditioned however on my continuing right to access as specified in paragraph 9 hereof and on the further condition that such tapes shall be destroyed at the time of my death or on September 1, 1984, whichever event shall first occur.

Mr. President, the words "shall be destroyed" mean "shall be destroyed." The agreement requires that they be destroyed. If this document stands as a contract, if it has any validity at all, it is a contract between the United States and the former President, and therefore binding on the United States.

So let us see. The former President says he is to keep the title to them, he is custodian of them until September 1, 1979, and if he dies either before or after that date, then the tapes shall be destroyed. But it does not stop there. It says:

Subsequent to September 1, 1979—

That is, after the donation to the United States, after retaining them in his custody until that time, and after they become the property of the United States—

the Administrator shall destroy such tapes as I may direct.

In other words, the President is going to have their custody until he gives them to the United States. If he dies before that time the tapes shall be destroyed, and if he lives until that time when they become the property of the United States, the Administrator is required to destroy any and all tapes that the former President directs him to destroy.

My colleagues say that we are moving in haste, that we ought to have long hearings, reinvestigate the Watergate and provide for the taking of all papers of Senators and Congressmen at a cost of millions of dollars, in the taking of all the letters that they have retained during their term of office.

Mr. HRUSKA. Mr. President, I yield myself 3 minutes.

Because of the parliamentary arrangements made I would like to offer at this time, to be voted on in due order as specified in the unanimous-consent agreement, an amendment in the nature of a substitute to S. 4016.

Mr. President, that amendment is now at the desk, and I offer it in modified form. The modification consists of the insertion of certain words on page 3, line 9. After the word "deposited" insert the work "or to be deposited." Otherwise it would be in its printed form as at the desk.

I offer my amendment, Mr. President, because of my deep concerns for a number of provisions in S. 4016 which raise significant and substantial constitutional issues bearing on the Office of the Presidency of the United States. Before I describe my amendment, I want to reiterate several points which I stressed yesterday.

First of all, I support the proposition that all papers generated by a public official should be public property. No public official who prepares papers or for whom the papers are prepared at the taxpayers' expense should profit from the sale of those documents.

Second, I want to make it very clear that my opposition to S. 4016 should not be construed as opposing the telling of the full story about the Watergate break-in and cover-up. The Watergate story should be told.

I rise in opposition to this bill because I am a lawyer who is deeply troubled by the constitutionality of some of the measures contemplated by this bill. I firmly believe that this bill raises serious and fundamental constitutional issues. It is for this reason that I intend to ask that the bill be referred to the Committee on the Judiciary for a full hearing of all these constitutional issues and I must emphasize once again that these issues were not aired before the Committee on Government Operations. Not a single minute of hearings was held. My amendment in a humble way attempts to obviate some of these possibly constitutional deficiencies while at the same time preserving the papers of former President Nixon. The purposes underlying my amendment are basically threefold.

First, it provides that the papers and other recorded communications of our recent Presidents and other elected officials including Vice Presidents, Senators and Congressmen shall constitute public property.

A concern that has troubled many of my colleagues is the profiting that can result when an elected official sells the papers that he originated at a time he was serving the public and for which he was being compensated by the public. This is a concern that has reached new heights in some quarters by the resignation of Richard Nixon and the agreement he executed with the General Services Administrator. But it must be obvious to all that this concern is equally applicable to all other elected officials.

Another concern underlying the preservation of Presidential papers and recordings involves the pursuit of truth. Again though if we are to learn the actual circumstances, decisions, and thoughts underlying a matter important to the citizens the elected official serves then the papers and recorded communications of all elected officials should be preserved.

In order to satisfy these two concerns, the amendment I introduce makes all official communications of elected officials public property and requires that they be preserved and protected. This provision prevails notwithstanding any agreement executed by the elected official to the contrary. If it deprives any individual of any papers or recordings now considered to be private property without just compensation, the General Services Administrator is authorized to provide such compensation.

In the case of an elected official other than a President, the amendment grants an option to the official allowing him to donate his papers to a university, museum or library open to the public. If he chooses not to exercise the option, the papers remain public property and would be deposited in the National Archives system.

So my amendment does not require the deposit of the papers of a Senator or Congressman solely in the National Archives. A Senator or Congressman can deposit those papers in a university or library of his choosing. However, the transfer of these documents to the library or university can be at no pecuniary benefit to the Senator or Congressman.

Second, the amendment establishes standards for public access to the public communications. The standards established are similar to those prescribed by every President from Herbert Hoover on who donated his papers to the United States. For example, official communications that are properly classified; communications that might be used primarily to embarass, damage, injure or harass any living person; and communications the disclosure of which is likely to impair or prejudice an individual's right to a fair and impartial trial, could be withheld from public disclosure.

These standards are outlined in section 2207 of my amendment. All communications would be disclosed to the public unless they fall in one of the following categories—and I am reading now from my amendment:

(1) communications which are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy or the disclosure of which would adversely affect the security of the United States or prejudice the conduct of foreign relations;

(2) communications relating to investigations for law enforcement purposes except to the extent available by law to a party other than an agency;

(3) communications which contain information or statements that might be used primarily to embarrass, damage, injure, or harass any living person;

(4) communications made by or to the elected official in confidence, unless in the judgment of the Administrator of General Services or his designees the reason for the confidentiality no longer exists;

(5) communications relating to the personal, family, and confidential business affairs of the elected official or of persons who have had correspondence with him, unless in the judgment of the Administrator of General Services or his designees the reason for the confidentiality no longer exists;

(6) personnel and medical files and similar files the disclosure of which would constitute an unwarranted invasion of personal privacy; and

(7) communications the disclosure of which is likely to impair or prejudice an individual's right to a fair and impartial trial.

These standards are necessary to guard against the possibility of the papers or recordings being used to invade the privacy of individuals or to injure or harass any individuals and are necessary to safeguard properly the interests of the United States. The Administrator of GSA is instructed to review the records at reasonable intervals and to grant public access to any communications which, because of the passage of time or other circumstances, no longer require restriction.

The problem with S. 4016 is that it authorizes the Administrator of GSA to issue regulations governing the disclosure of President Nixon's papers but does not specifically prescribe a guideline for him to use in formulating these regulations. It is a delegation of nearly unlimited power. My amendment on the other hand, specifically states those standards which are to govern disclosure. In this respect it is parallel to the approach taken by the Congress in the Freedom of Information Act.

Third, the amendment provides for the maintenance of any records for use in any judicial proceeding. Consistent with the requirements of the Constitution, the bill preserves the right of the elected official to assert any privilege or defense to a subpena or motion to produce the records.

I believe that my amendment obviates some, if not most, of the constitutional objections to S. 4016. For example, with respect to the basic doctrine of separation of powers, the amendment preserves the privilege of the United States and the former President to maintain in confidence those communications the disclosure of which would hamper or impair the effective functioning of the executive branch. With respect to the right of privacy: the amendment expressly recognizes this right. Standard No. 6 exempts from disclosure those documents which would constitute an unwarranted invasion of privacy.

With respect to the first amendment to the Constitution, my amendment recognizes the value embodied in the first amendment by protecting from disclosure communications made by or to the elected official in confidence. Further, it protects from disclosure those communications which contain information or statements that might be used primarily to embarrass, damage, injure, or harass any living person.

Finally, the amendment obviates the issue centering around the bill of attainder clause because it applies not to a named individual but to all elected officials.

Mr. ERVIN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. There is a motion pending to refer the original bill to the Judiciary Committee. Is it in order to offer an amendment while a motion is pending?

The PRESIDING OFFICER. The Senator is correct, it is not in order, except by unanimous consent.

Mr. HRUSKA. Mr. President, I did not offer an amendment. If the Senator will bear with me a little bit, I very carefully stated, and the record will so show, it is sent to the desk and it is offered pursuant to the arrangement made in the unanimous-consent agreement which we all understand. That unanimous-consent agreement is that we will vote on the motion to refer to the Judiciary Committee. If that fails then there will be an amendment in the nature of a substitute which I have offered, and offer, contingent upon the order in the unanimous-consent agreement, in its modified form.

If that fails, then we will have a vote, according to the unanimous-consent agreement, on any amendment to S. 4016, and then we will have a vote on final passage. It is in that order—and there will be no debate after the vote commences. Therefore, it is necessary that I place in the pipeline here the necessary documents to support that order that was agreed to.

Mr. ERVIN. I will say to my friend, the Senator from Nebraska, if he will ask unanimous consent to modify his own amendment by inserting at the places indicated the words "or to be deposited," I will have no objection to its being modified.

Mr. HRUSKA. I do not know, but the way I understand the laws and rules of the Senate, the offeror of an amendment can modify it at any time. But I am happy to have the consent of the Senator from North Carolina.

Mr. ERVIN. I am just raising the point that the motion to refer was pending; that this could not be done without unanimous consent. I am just trying to give the Senator unanimous consent to modify his own amendment.

Mr. HRUSKA. And I welcome it.

Mr. ERVIN. With reference to the other amendment, I would like to ask a question with respect to the unanimous-consent agreement. Am I at liberty to table the amendment?

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. HRUSKA. I have no objection to that. Any objection on my part would be futile because I am sure the rules provide for that. If the unanimous-consent agreement does not provide that, I would be agreeable to see that that is done.

Mr. ERVIN. That is with respect to the amendment just sent to the desk?

Mr. HRUSKA. That is right.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, may the Record show that in this sequence I have described that the necessary documents are on hand and that voting will proceed in the order mentioned. There is no further introduction of documents necessary on my part; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HRUSKA. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. I suggest the absence of a quorum, the time to be equally divided between the parties.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:10 P.M.

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 1:10 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, at 12:40 p.m., the Senate took a recess until 1:10 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HASKELL).

PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT

The Senate continued with the consideration of the bill (S. 4016) to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.

Mr. HRUSKA. Mr. President, I ask unanimous consent that Eric Hultman, a member of my staff, be allowed the privilege of the floor for the rest of the debate and vote on the pending measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HRUSKA. The manager of the bill on the other side agrees that the time is to be charged equally to the sides.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I yield to the Senator from Wisconsin (Mr. NELSON).

Mr. NELSON. Mr. President, I would like to summarize the evolution of and need for this legislation. The record must be absolutely clear on Congress' intent. Two weeks ago, I introduced S. 4016 with the cosponsorship of Senator ERVIN and Senator JAVITS. The thrust of the legislation as originally written was simple: it required the Federal Government to take complete possession and control of the Nixon tapes.

With my support and the cooperation of my staff, the bill has been revised to include all the other Presidential materials of Mr. Nixon's tenure. The legislation protects Mr. Nixon's and every other individual's right to invoke any right or privilege to prevent disclosure of the materials. The revised legislation also requires the GSA to issue within 90 days regulations governing public access to tapes and materials bearing on the Watergate scandals. Congress will have 90 days to review the proposed regulations to insure that they account for

some basic considerations. Among the basic considerations specified in the bill are the following:

The need to provide the American people with the full truth of the Watergate scandals at the earliest possible date;

The need to protect an individual's right to privacy and a fair trial;

The need to prevent general access to national security information;

The need to retain materials relating to the Watergate scandals and others of historical significance, such as papers and tapes bearing on important policy decisions, diplomatic negotiations, and records of the White House gift unit.

The need for this legislation is beyond question. For the first time in our Nation's history, a President resigned because of clear and overwhelming evidence that he had committed impeachable offenses. Mr. Nixon's resignation is merely an indication of the breadth of the Watergate tragedies. Already more than three dozen individuals have been indicted for the commission of statutory crimes. These crimes included wiretapping, buggings, and break-ins. They represented, in effect, a wholesale assault on our political system's most precious commodity—individual freedom.

It is vitally important that all evidence relating to those crimes be made available for use in judicial proceedings. A fair trial requires that the prosecutor and the defendant have access to all information bearing on the defendant's innocence or guilt.

It is equally important that the American people and their representatives in Congress learn the full truth about the Watergate scandals. In the last couple of years, we came dangerously close to losing those individual rights and liberties which are the bedrock of our constitutional system. Fortunately, the Watergate fires of abuse and repression were doused before they entirely consumed our constitutional freedoms. But our future is not secure. The sparks of repression and arbitrary power are always present. Someday, another President in another administration can again try to strip Americans of those fundamental freedoms guaranteed to every individual by our Constitution.

We cannot afford to take that risk. Congress must take action to correct the institutional and legal weaknesses which made the dangerous abuses of Watergate possible. But Congress cannot formulate such corrective measures unless it has all the facts relating to Watergate. And the American people may not urge or support such corrective measures unless they, too, have all the facts.

The Nixon tapes and papers no doubt provide information which will allow justice to be done in our courts. Those materials will also provide the people and the Congress with the information they need to prevent future Watergates.

The agreement negotiated between Mr. Nixon and the White House undercuts these important public policies and needs. It directs the destruction of the tapes by 1984 or upon Mr. Nixon's death, whichever event occurs first. The agreement also allows Mr. Nixon to control, and by 1977, destroy all other Presidential papers. Execution of the agreement would therefore deprive the courts, the American people, and the Congress of the information which they vitally need to preserve the integrity and viability of our constitutional system. Execution of the agreement would be nothing less than a coverup of the coverup.

S. 4016 is designed to deal with this emergency situation. It is simply a holding action which will preserve the Nixon tapes and papers. This bill is clearly constitutional; a report made by the Congressional Research Service and inserted in yesterday's RECORD reviewed and rejected every constitutional objection which can be made. And, in any event, the bill provides for an expeditious ruling by the Supreme Court of any legal or constitutional challenge to the bill.

I agree that broad legislation is needed to insure that the documents and materials of all public officials remain the property of the public. But we need not deal with that broad question now. We are faced with an emergency situation which requires immediate action by Congress. If we use S. 4016 to deal with the far larger issue of public ownership of a public official's papers and materials, we are inviting the bill's demise. And if we do not enact S. 4016 as reported out of committee, we are inviting the contempt of the American people. They are looking to their representatives in Congress to preserve the truth about Watergate. We dare not disappoint them.

I therefore urge the Senate to reject a motion for continued study, to reject the substitute amendment, and to pass S. 4016 as reported out of committee.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Under the same conditions, the time to be equally charged?

Mr. NELSON. Will the Senator from North Carolina yield?

Mr. ERVIN. Yes; I yield whatever time the Senator may need.

Mr. NELSON. I do not wish any time. I took notice of the absence of a quorum and the Chair asked me if it were under the same conditions. I do not know what the conditions are.

Mr. ERVIN. Yes; the time was to be charged equally to both sides. I assume that is still the condition.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. ERVIN. I yield myself whatever time I may need.

The last amendment the Senator from Nebraska said he may offer to the original bill is as follows:

On page 4, line 25, delete the letter (a). Strike section 3(b) and sections 5 and 6.

This amendment reminds me of the story of the fisherman who went fishing and carried his frying pan along with him. He caught a little fish, and he decided that he would cook it, there on the bank of the stream. Se he took out his knife and started cleaning the fish.

The little fish resisted and wiggled considerably. The fisherman said:

I do not see why you are struggling so hard; all I want to do is gut you.

This last amendment will gut the bill. It would just leave the tapes in the custody of the Administrator, subject to the agreement made between the Administrator and the former President. It would cut out the provisions of the bill which provide that the prosecutor should have access to the tapes, or that the courts will have jurisdiction to issue subpenas for tapes, and would deprive the Administrator of the power to issue any regulations which would give access to the court or to any parties who sought to subpena them for evidence.

It would, in fact, destroy the bill. I thought I had better make these observations, because under the unanimous-consent agreement, I may not have time to do it. That is a proper analysis of the effect of this last-proposed amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum under the former conidtions.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I yield the Senator from Missouri as much time as he may require.

THE NEED FOR ACTION NOW TO PRESERVE PRESIDENTIAL RECORDINGS AND MATERIALS

Mr. SYMINGTON. Mr. President, as one who believes that it is definitely in the public interest to preserve Presidential tapes and documents, I support and endorse the creative and constructive legislative approach for that purpose in S. 4016.

The Committee on Government Operations bill provides for the Federal Government to maintain possession and control of former President Nixon's papers and documents.

Destruction of the tapes, a certainty under the agreement entered into between the GSA Administrator and the former President, would be avoided under this legislation. The Federal Government is to maintain custody of the memoranda, documents and papers and is to permit access as may be needed in the interest of the proper administration of justice and in the public's right to know the facts. At the same time, provision is made to protect national security interests and to protect certain rights of the former President.

The legislation provides for an expedited procedure under which ownership questions may be resolved, but does not itself determine the questions of title. If it is determined in the courts that the documents constitute the private property of former President Nixon, then be-

cause these papers are embued with the public interest, the Federal Government will pay appropriate compensation, and the custody taken by the Government will have been an exercise of the power of eminent domain.

In short, this bill seeks to set aside that portion of the agreement which the GSA Administrator has undertaken which would permit the destruction of tapes and documents, and it does so in a fair and eminently sensible way.

In this connection, let me quote former President Truman on the importance of preservation of Presidential records. Merle Miller's new book, Plain Speaking, quotes Mr. Truman in his discussion of libraries as stating:

> The worst thing in the world is when records are destroyed. The destruction of the Alexandrian Library and also the destruction of the great libraries in Rome. Those were terrible things, and one was done by the Moslems and the other by the Christians, but there's no difference between them when they're working for propaganda purposes.
>
> Now as for the Presidency, every piece of paper a President signs, every piece of paper he touches even has to be saved. You take Lincoln and Fillmore. Millard Fillmore's son burned all his father's papers because he was ashamed of his father, who had come from the very bottom line right to the top. And Robert Todd Lincoln burned about half to two-thirds of his father's papers for the same reason, because he was ashamed of him. A thing like that ought to be against the law.

I will vote against the motion to commit S. 4016 to the Judiciary Committee. I also will vote against the substitute which will be offered by Senator HRUSKA in the belief that permanent legislation of the character to cover public papers of all Presidents, Senators, and Congressmen will require hearings and further consideration. That is quite a different question than is presented under the unusual circumstances which have developed in the aftermath of Watergate.

I will vote for S. 4016 and urge its speedy enactment by the Congress.

Mr. ERVIN. Mr. President, I suggest the absence of a quorum under the same conditions as stated before.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ERVIN. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. ERVIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I ask for the yeas and nays on the pending motion to refer the bill to the Committee on the Judiciary.

The yeas and nays were ordered.

Mr. ERVIN. I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the substitute amendment.

Mr. PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I ask for the yeas and nays on the substitute.

The yeas and nays were ordered.

Mr. ERVIN. There is an amendment to the pending bill which may be offered by the Senator from Nebraska, which, if it is called up, I shall move to lay on the table. I ask unanimous consent that it be in order to order the yeas and nays at this time on that motion to lay on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I ask for the yeas and nays on the motion to lay on the table.

The yeas and nays were ordered.

Mr. ERVIN. I ask unanimous consent that it be in order at this time to order the yeas and nays on passage of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I ask for yeas and nays.

The yeas and nays were ordered.

Mr. NELSON. Mr. President, will the Senator from North Carolina yield for a question?

Mr. ERVIN. I yield.

Mr. NELSON. What is the pending motion?

Mr. ERVIN. The pending motion is to refer the bill to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, if the Senator will yield, it was my understanding of the unanimous consent agreement yesterday that it would allow a minute or so for each side, prior to a vote, to identify the subject matter of the vote before the roll was called.

Mr. ROBERT C. BYRD. No, that was not the understanding, but any Senator has the right to ask the Chair to identify the question.

Mr. HRUSKA. Well, that is all right, but in the case of one motion, it is rather long and involved, and difficult to identify in that fashion.

Mr. ROBERT C. BYRD. Well, we can take care of that.

Mr. HUMPHREY. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. HASKELL). The hour of 1:30 having arrived, the question is on agreeing to the motion of the Senator from Nebraska (Mr. HRUSKA) to refer the bill to the Judiciary Committee.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CLARK), and the Senator from Illinois (Mr. STEVENSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent to attend the funeral of a relative.

On this vote, the Senator from Kansas (Mr. DOLE) is paired with the Senator from Ohio (Mr. TAFT).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from Kansas would vote "nay."

On this vote, the Senator from New Mexico (Mr. DOMENICI) is paired with the Senator from Illinois (Mr. PERCY).

If present and voting, the Senator from New Mexico would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 15, nays 51, as follows:

[No. 451 Leg.]

YEAS—15

Bartlett	Griffin	Scott, William L.
Curtis	Helms	Stennis
Eastland	Hruska	Thurmond
Fannin	McClure	Young
Fong	Scott, Hugh	
Goldwater		

NAYS—51

Abourezk	Hathaway	Nelson
Allen	Hughes	Nunn
Beall	Humphrey	Pastore
Bentsen	Jackson	Pearson
Bible	Javits	Pell
Brooke	Long	Proxmire
Burdick	Magnuson	Randolph
Byrd, Harry F., Jr.	Mansfield	Ribicoff
Byrd, Robert C.	Mathias	Roth
Case	McClellan	Schweiker
Chiles	McGee	Stafford
Cranston	McIntyre	Stevens
Ervin	Metcalf	Symington
Hart	Metzenbaum	Tunney
Hartke	Mondale	Weicker
Haskell	Montoya	Williams
Hatfield	Moss	
	Muskie	

NOT VOTING—34

Aiken	Cotton	Johnston
Baker	Dole	Kennedy
Bayh	Domenici	McGovern
Bellmon	Dominick	Packwood
Bennett	Eagleton	Percy
Biden	Fulbright	Sparkman
Brock	Gravel	Stevenson
Buckley	Gurney	Taft
Cannon	Hansen	Talmadge
Church	Hollings	Tower
Clark	Huddleston	
Cook	Inouye	

So Mr. HRUSKA's motion to refer was rejected.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the motion of Mr. HRUSKA was rejected.

Mr. ERVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the question now occurs on the amendment in the nature of a substitute offered by the Senator from Nebraska (Mr. HRUSKA), being amendment No. 1955, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Missouri (Mr. EAGLETON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CLARK), and the Senator from Illinois (Mr. STEVENSON) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent attending a funeral of a relative.

On this vote, the Senator from Kansas (Mr. DOLE) is paired with the Senator from Ohio (Mr. TAFT).

If present and voting, the Senator from Ohio would vote "yea" and the Senator from Kansas would vote "nay."

On this vote, the Senator from New Mexico (Mr. DOMENICI) is paired with the Senator from Illinois (Mr. PERCY).

If present and voting, the Senator from New Mexico would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 14, nays 52, as follows:

[No. 452 Leg.]

YEAS—14

Bartlett	Goldwater	Scott, Hugh
Curtis	Griffin	Scott, William L.
Eastland	Helms	Stennis
Fannin	Hruska	Thurmond
Fong	McClure	

NAYS—52

Abourezk	Hathaway	Nelson
Allen	Hughes	Nunn
Beall	Humphrey	Pastore
Bentsen	Jackson	Pearson
Bible	Javits	Pell
Brooke	Long	Proxmire
Burdick	Magnuson	Randolph
Byrd, Harry F., Jr.	Mansfield	Ribicoff
Byrd, Robert C.	Mathias	Roth
Case	McClellan	Schweiker
Chiles	McGee	Stafford
Cranston	McIntyre	Stevens
Ervin	Metcalf	Symington
Hart	Metzenbaum	Tunney
Hartke	Mondale	Weicker
Haskell	Montoya	Williams
Hatfield	Moss	Young
	Muskie	

NOT VOTING—34

Aiken	Cotton	Johnston
Baker	Dole	Kennedy
Bellmon	Domenici	McGovern
Bayh	Dominick	Packwood
Bennett	Eagleton	Percy
Biden	Fulbright	Sparkman
Brock	Gravel	Stevenson
Buckley	Gurney	Taft
Cannon	Hansen	Talmadge
Church	Hollings	Tower
Clark	Huddleston	
Cook	Inouye	

So Mr. HRUSKA's amendment in the nature of a substitute, as modified, was rejected.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the amendment No. 1955 in the nature of a substitute, as modified, was rejected.

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HRUSKA. Mr. President, I call up my amendment to the pending bill which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. HRUSKA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA's amendment is as follows:

On page 4, line 25, delete the letter (a). Strike section 3(b) and sections 5 and 6.

Mr. PASTORE. May we have order?

Mr. HUGH SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUGH SCOTT. Is this the amendment which strikes from the bill everything except the provision against destruction of the papers?

The PRESIDING OFFICER. The Chair will state that the amendment strikes out section 3(b); it strikes out section 5 and section 6 in their entirety. As to what conclusion can be drawn from that has to be drawn by each Senator.

Mr. HUGH SCOTT. It is my understanding that it does strike out all the provisions except the provision guaranteeing against the destruction of the Presidential papers.

Is that right?

Mr. ERVIN. That is right. It guts the bill.

[Laughter.]

Mr. ERVIN. Mr. President, I move to table the amendment.

Mr. JAVITS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent attending the funeral of a relative.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Ohio (Mr. TAFT).

If present and voting, the Senator from Illinois would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 49, nays 15, as follows:

[No. 453 Leg.]

YEAS—49

Abourezk	Hatfield	Nunn
Allen	Hathaway	Pastore
Beall	Hughes	Pearson
Bentsen	Humphrey	Pell
Bible	Jackson	Proxmire
Brooke	Javits	Randolph
Burdick	Magnuson	Ribicoff
Byrd, Harry F., Jr.	Mansfield	Roth
Byrd, Robert C.	Mathias	Schweiker
Case	McClellan	Stafford
Chiles	McGee	Stevens
Cranston	Metzenbaum	Symington
Ervin	Mondale	Tunney
Hart	Montoya	Weicker
Hartke	Moss	Williams
Haskell	Muskie	Young
	Nelson	

NAYS—15

Bartlett	Helms	Scott, William L.
Eastland	Hruska	Stennis
Fannin	Long	Thurmond
Fong	McClure	
Goldwater	Metcalf	
Griffin	Scott, Hugh	

NOT VOTING—36

Aiken	Cotton	Inouye
Baker	Curtis	Johnston
Bayh	Dole	Kennedy
Bellmon	Domenici	McGovern
Bennett	Dominick	McIntyre
Biden	Eagleton	Packwood
Brock	Fulbright	Percy
Buckley	Gravel	Sparkman
Cannon	Gurney	Stevenson
Church	Hansen	Taft
Clark	Hollings	Talmadge
Cook	Huddleston	Tower

So the motion to table Mr. HRUSKA's amendment was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HELMS). The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HUGH SCOTT. Mr. President, it would have been better to remove the constitutional questions before final passage, but since the only course now available to us is the pending bill to prevent the destruction of the Presidential papers, I will support it.

The PRESIDING OFFICER. The Senate will be in order.

Mr. WILLIAM L. SCOTT. Mr. President, will there be further discussion of the bill at this time?

The PRESIDING OFFICER. The Chair advises that under the previous order, no debate is permitted.

The bill having been read a third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. McCLURE. Mr. President, on this vote, I have a pair with the Senator from Kansas (Mr. DOLE). If he were present, he would vote "yea". If I were at liberty to vote, I would vote "nay". I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN), the Senator from Nevada (Mr. CANNON), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from Wyoming (Mr. HANSEN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER), are necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent to attend the funeral of a relative.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

On this vote, the Senator from New Mexico (Mr. DOMENICI) is paired with the Senator from Ohio (Mr. TAFT).

If present and voting, the Senator from New Mexico would vote "yea" and the Senator from Ohio would vote "nay."

The result was announced—yeas 56, nays 7, as follows:

[No. 454 Leg.]

YEAS—56

Abourezk	Hartke	Muskie
Allen	Haskell	Nelson
Beall	Hatfield	Nunn
Bentsen	Hathaway	Pastore
Bible	Hughes	Pearson
Brooke	Humphrey	Pell
Burdick	Jackson	Proxmire
Byrd, Harry F., Jr.	Javits	Randolph
	Long	Ribicoff
Byrd, Robert C.	Magnuson	Roth
Case	Mansfield	Schweiker
Chiles	Mathias	Scott, Hugh
Cranston	McClellan	Stafford
Ervin	McGee	Stevens
Fannin	Metcalf	Symington
Fong	Metzenbaum	Tunney
Goldwater	Mondale	Weicker
Griffin	Montoya	Williams
Hart	Moss	Young

NAYS—7

Bartlett	Hruska	Stennis
Eastland	Scott, William L.	Thurmond
Helms		

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClure, against.

NOT VOTING—36

Aiken	Cotton	Inouye
Baker	Curtis	Johnston
Bayh	Dole	Kennedy
Bellmon	Domenici	McGovern
Bennett	Dominick	McIntyre
Biden	Eagleton	Packwood
Brock	Fulbright	Percy
Buckley	Gravel	Sparkman
Cannon	Gurney	Stevenson
Church	Hansen	Taft
Clark	Hollings	Talmadge
Cook	Huddleston	Tower

So the bill (S. 4016) was passed.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NELSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ERVIN. Mr. President, at this time, I wish to take the opportunity to express my appreciation of the outstanding contributions to the development of this very important legislation which the Senate has just passed by Eli Nobleman, counsel to the Senate Committee on Government Operations; Brian Conboy, special counsel to the minority of the Committee on Government Operations; W. P. Goodwin, counsel to the Committee on Government Operations; and Lewis Paper, legislative counsel to Senator GAYLORD NELSON, all of whose performance was indeed outstanding.

I wish also to express by deep appreciation to Senator NELSON, Senator PERCY, Senator JAVITS, and all of the members of the Committee on Government Operations for the very diligent effort they gave to the formulation of this legislation.

Mr. NELSON. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from North Carolina (Mr. ERVIN) in his commendation of the staff members who worked so hard in drafting, redrafting, and refining this bill. I particularly wish to congratulate Mr. Lew Paper of my staff, who originated the concept of this legislation, designed the original proposal, and has worked all these weeks in drafting what I believe to be a very sound legislative proposal.

Mr. WILLIAM L. SCOTT. Mr. President, I am one of the few Senators who voted "nay" on this resolution. I think it may well be a good resolution to make the papers of public officials such as the President public property. Nevertheless, I think it is very untimely.

In our State of Virginia, we have a law that if someone is the aggressor in a fist fight, if he knocks someone down he is guilty of simple assault and battery, but if he kicks him after he is down, that is aggravated assault, which is a felony in Virginia.

I think we have kicked a past President today.

Mr. HUGH SCOTT. Mr. President, as I earlier indicated I would, I voted for this bill on passage, which was the only course available to prevent the destruction of these papers, which must not be destroyed under any circumstances.

We could have accomplished the same thing by adopting the provision in the supplemental appropriation bill where the same preservation of papers is pro-

vided for until substantive legislation is passed, in which event to have this go over for a few days or even until we returned on November 12, notwithstanding what may have been said here, would not have resulted in any damage to the concept involved, namely, the preservation of the papers.

I do not know how these things will be handled in the process of informing the public, but I think it ought to appear that there was a very strong bipartisan consensus that these papers had to be preserved, and a very strong desire expressed throughout the debate that there should be no way by which the papers could be destroyed pending the final action by Congress. Therefore, I have joined in supporting the legislation on passage.

I do regret that we did not examine the constitutionality of the issue at all. There are at least six constitutional questions involved. But I would like to make the point that since we were completely overridden on those suggestions, if the act turns out to be unconstitutional, I hope the public will hold responsible those people who disregarded the possibility of unconstitutionality. I suspect many of them will be long gone, and allowing that they had never been around in the first place, and their votes must have been cast under misapprehension.

But be that as it may, the future will tell; or I might put it another way, and say Time will tell, and so, probably, will Newsweek. The question is whether Time and Newsweek can or will tell properly how it happened.

Mr. MANSFIELD. Mr. President, the Senate's efficient disposition of the measures dealing with public access to "Watergate" tapes and records and facts may be attributed to the outstanding efforts of the senior Senator from North Carolina (Mr. ERVIN), the distinguished chairman of the Senate Government Operations Committee. His immense skill, able advocacy, and energy were applied once more with the utmost devotion to an extremely urgent and important matter. We are indebted to him for the fairness and even-handedness with which he led the way for the outstanding success of these measures.

Joining Senator ERVIN to assure this success was the Senator from Wisconsin (Mr. NELSON). He, along with the ranking minority member of the committee, Senator PERCY, are to be commended for adding their leadership to the issues involved in these measures. As always, their views were presented with the highest degree of clarity. We are indebted to them for their contributions.

Notable, too, was the cooperation of the distinguished Senator from Nebraska (Mr. HRUSKA). It was indispensable. And the distinguished Senator from New York (Mr. JAVITS) deserves praise as well for his support.

It is with a deep sense of gratitude that I make these remarks and commend the Senate as a whole for an outstanding job.

Mr. President, to keep a commitment made to the distinguished Senator from Nebraska (Mr. HRUSKA), I ask unanimous consent that Calendar No. 1126, Senate Joint Resolution 240, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER PRODUCT WARRANTIES-FEDERAL TRADE COMMISSION IMPROVEMENT ACT

Mr. MOSS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 356.

The PRESIDING OFFICER (Mr. HELMS) laid before the Senate the amendments of the House of Representatives to S. 356 to provide disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes, as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Consumer Product Warranties-Federal Trade Commission Improvements Act".

TITLE I—CONSUMER PRODUCT WARRANTIES

DEFINITIONS

SEC. 101. For the purposes of this title:

(1) The term "consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed).

(2) The term "Commission" means the Federal Trade Commission.

(3) The term "consumer" means the first buyer at retail of any consumer product, any person to whom such product is transferred during the duration of a warranty (or service contract) applicable to the product, and any other person who is entitled by the terms of such warranty (or contract) or under applicable State law to enforce against the warrantor (or service contractor) the obligations of the warranty (or contract).

(4) The term "reasonable and necessary maintenance" consists of those operations (A) which the consumer reasonably can be expected to perform or have performed and (B) which are necessary to keep any consumer product performing its intended function and operating in the manner (if any) specified in the warranty.

(5) The term "remedy" means whichever the following actions the warrantor elects:

(A) repair,

(B) replacement, or

(C) refund;

except that the warrantor may not elect refund unless (i) the warrantor is unable to provide replacement and repair is not commercially practicable or cannot be timely made, or (ii) the consumer is willing to accept such refund.

(6) The term "replacement" means furnishing a new consumer product which is identical or reasonably equivalent to the warranted product.

(7) The term "refund" means refunding the actual purchase price (less depreciation based on actual use).

(8) The term "supplier" means any person engaged in the business of making a consumer product directly or indirectly available to consumers.

(9) The term "warrantor" means any supplier who gives or offers to give a warranty.

(10) The term "warranty" means—

(A) (i) any written affirmation of fact or written promise made at the time of sale by a supplier to a purchaser which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specific level of performance over a specified period of time, or

(ii) any undertaking in writing in connection with the sale of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking,

which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and the first buyer at retail of such product; or

(B) an implied warranty arising under State law.

(11) The term "service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product.

(12) The term "distributed in commerce" means sold in commerce, introduced or delivered for introduction into commerce, or held for sale or distribution after introduction into commerce.

(13) The term "commerce" means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof, or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(14) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, or American Samoa. The term "State law" includes a law of the United States applicable only to the District of Columbia or only to a territory or possession of the United States; and the term "Federal law" excludes any State law.

WARRANTY PROVISIONS

SEC. 102. (a) In order to improve the adequacy of information available to consumers, prevent deception, and improve competition in the marketing of consumer products, any supplier warranting a consumer product to a consumer in writing shall fully and conspicuously disclose in simple and readily understood language the terms and conditions of such warrantly pursuant to any rules issued by the Commission. Such rules may require inclusion in the written warranty of any of the following items among others:

(1) The clear identification of the names and addresses of the warrantors.

(2) The identity of the party or parties to whom the warranty is extended.

(3) The products or parts covered.

(4) A statement of what the warrantor will do in the event of a defect, malfunction, or failure to conform with such written warrantly—at whose expense—and for what period of time.

(5) A statement of what the consumer must do and expenses he must bear.

(6) Exceptions and exclusion from the terms of the warranty.

(7) The step-by-step procedure which the consumer should take in order to obtain performance of any obligation under the warranty, including the identification of any class of persons authorized to perform the obligations set forth in the warranty.

(8) Information respecting the availability of any informal dispute settlement procedure offered by the warrantor and a recital, where the procedure so provides, that the purchaser must resort to such procedure before pursuing any legal remedies in the courts.

(9) A brief, general description of the legal remedies available to the consumer.

(10) The time at which the warrantor will perform his obligations.

(11) The period of time within which, after

notice of a defect, malfunction, or failure to conform with the warranty, the warrantor will perform any obligations under the warranty.

(12) The characteristics or properties of the products, or parts thereof, that are not covered by the warranty.

(13) The elements of the warranty in words or phrases which would not mislead a reasonable, average consumer as to the nature or scope of the warranty.

(b)(1)(A) The Commission shall prescribe rules requiring that the terms of any warranty on a consumer product be made available to the consumer (or prospective consumer) prior to the sale of the product to him.

(B) The Commission may prescribe rules for determining the manner and form in which information with respect to any written warranty of a consumer product shall be clearly and conspicuously presented or displayed so as not to mislead the reasonable, average consumer, when such information is contained in advertising, labeling, point-of-sale material, or other representations in writing.

(2) Nothing in this title (other than paragraph (3) of this subsection) shall be deemed to authorize the Commission to prescribe the duration of warranties given or to require that a consumer product or any of its components be warranted.

(3) The Commission may prescribe rules for extending the period of time a written warranty or service contract is in effect to correspond with any period of time in excess of a reasonable period (not less than ten days) during which the consumer is deprived of the use of such consumer product by reason of failure of the product to conform with the warranty or by reason of the failure of the warrantor (or service contractor) to carry out such warranty (or service contract) within the period specified in the warranty (or contract).

(c) No warrantor of a consumer product may condition his warranty of such product on the consumer's using, in connection with such product, any article or service (other than a service provided without charge under the terms of the warranty) which is identified by brand, trade, or corporate name; except that the prohibition of this subsection may be waived by the Commission if—

(1) the warrantor satisfies the Commission that the warranted product will function properly only if the product or service so identified is used in connection with the warranted product, and

(2) the Commission finds that the waiver is in the public interest.

The Commission shall publish in the Federal Register for public comment all applications for waiver of the prohibition of this subsection, and shall publish in the Federal Register its decision, including the reasons therefor.

(d) The Commission may by rule devise detailed, substantive warranty provisions which warrantors may incorporate by reference in their warranties.

(e) The provisions of this section apply only to consumer products actually costing the consumer more than $5.

DESIGNATION OF WARRANTIES

SEC. 103. (a) Any supplier warranting a consumer product in writing shall clearly and conspicuously designate such warranty in the following, unless exempted from doing so by the Commission pursuant to subsection (c) of this section:

(1) If the written warranty incorporates the Federal minimum standards for warranty set forth in section 104 of this Act, then it shall be conspicuously designated a "full (statement of duration)" warranty or guaranty.

(2) If the written warranty does not incorporate the Federal minimum standards for warranty set forth in section 104 of this Act, then it shall be conspicuously designated a "limited" warranty or guaranty.

(b) Statements or representations similar to expressions of general policy concerning customer satisfaction which are not subject to any specific limitations are excluded from sections 102, 103, and 104 of this Act, but shall remain subject to the provisions of the Federal Trade Commission Act and requirements in section 110(c) of this Act.

(c) In addition to the authority given in section 102 of this Act pertaining to disclosure, the Commission may prescribe rules to define in detail the duties set forth in section 104(a) of this Act and their applicability to warrantors of different categories of consumer products with "full (statement of duration)" warranties, and to determine when a warranty in writing does not have to be designated either "full (statement of duration)" or "limited" in accordance with this section.

(d) The provisions of this section and section 104 apply only to consumer products actually costing the consumer more than $10.

FEDERAL MINIMUM STANDARDS FOR WARRANTY

SEC. 104. (a) In order for a supplier warranting a consumer product in writing to incorporate the Federal minimum standards for warranty—

(1) such supplier must as a minimum undertake the remedy, within a reasonable time and without charge, of such consumer product in the case of a defect, malfunction, or failure to conform with such written warranty;

(2) notwithstanding section 108(b), such supplier may not impose any limitation on the duration of any implied warranty on the product; and

(3) if the product (or component part thereof) contains a defect or malfunction after a reasonable number of attempts (determined under rules of the Commission) by the warrantor to remedy such defect or malfunction, such warrantor must permit the consumer to elect either a refund or replacement without charge of such product or part (as the case may be).

(b)(1) In fulfilling the duties under subsection (a) the warrantor shall not impose any duty other than notification upon any consumer as a condition of securing remedy of any consumer product which does not conform to the written warranty unless the warrantor can demonstrate that such a duty is reasonable.

(2) Notwithstanding paragraph (1), a warrantor may require, as a condition to replacement of, or refund for, any consumer product under subsection (a), that the replaced consumer product shall be made available to the supplier free and clear of liens and other encumbrances, except as otherwise provided by rule or order of the Commission in cases in which such a requirement would not be practicable.

(3) The duties under subsection (a) extend from the warrantor to each person who is a consumer with respect to the product.

(c) The performance of the duties under subsection (a) of this section shall not be required of the warrantor if he can show that damage (not resulting from defect or malfunction) while in the possession of the consumer, or unreasonable use (including failure to provide reasonable and necessary maintenance), caused any warranted consumer product to fail to conform to the written warranty.

(d) For purposes of this section and section 102(c), the term "without charge" means that the warrantor cannot assess the consumer for any costs the warrantor or his representatives incur in connection with the required remedy of a warranted consumer product. The obligation under subsection (a)(1)(A) to remedy without charge does not necessarily require the warrantor to compensate the consumer for incidental expenses; however, if any incidental expenses are incurred because the remedy is not made within a reasonable time or because the warrantor imposed an unreasonable duty upon the consumer as a condition of securing remedy, then the consumer shall be entitled to recover reasonable incidental expenses which are so incurred in any action against the warrantor.

(e) If a supplier designates a warranty applicable to a consumer product as a "full (statement of duration)" warranty, then the warranty on such product shall, for the purposes of any action under section 110(d) or under any State law, be deemed to incorporate at least the minimum requirements of this section.

FULL AND LIMITED WARRANTING OF A CONSUMER PRODUCT

SEC. 105. Nothing in this title shall prohibit the selling of a consumer product which has both full and limited warranties if such warranties are clearly and conspicuously differentiated.

SERVICE CONTRACTS

SEC. 106. Nothing in this title shall be construed to prevent a supplier from entering into a service contract with the consumer fully and conspicuously discloses in simple and readily understood language its terms and conditions. The Commission may prescribe by rule the manner and form in which the terms and conditions of service contracts shall be clearly and conspicuously disclosed.

DESIGNATION OF REPRESENTATIVES

SEC. 107. Nothing in this title shall be construed to prevent any warrantor from designating representatives to perform duties under the warranty: *Provided*, That such warrantor shall make reasonable arrangements for compensation of such designated representatives, but no such designation shall relieve the warrantor of his direct responsibilities to the consumer or make the representative a cowarrantor.

LIMITATION ON DISCLAIMER OF IMPLIED WARRANTIES

SEC. 108. (a) No supplier may disclaim or modify any implied warranty to a consumer with respect to a consumer product if (1) such supplier makes any express warranty in writing to the consumer with respect to such consumer product, or (2) at the time of sale, or within ninety days thereafter, such supplier enters into a service contract with the consumer which applies to such consumer product.

(b) For purposes of this title, implied warranties may be limited in duration to the duration of an express warranty of reasonable duration, if such limitation is conscionable and is set forth in clear and unmistakable language and prominently displayed on the face of the warranty.

(c) A disclaimer, modification, or limitation made in violation of this section shall be ineffective for purposes of any action under this title or under State law.

COMMISSION RULES

SEC. 109. Any rule prescribed under this title shall be prescribed in accordance with, and shall be subject to judicial review under, section 18 of the Federal Trade Commission Act (as amended by section 202 of this Act).

REMEDIES

SEC. 110. (a)(1) Congress hereby declares it to be its policy to encourage warrantors to establish procedures whereby consumer disputes are fairly and expeditiously settled through informal dispute settlement mechanisms.

(2) The Commission shall prescribe rules setting forth requirements for any informed dispute settlement procedure which is incorporated into the areas of a warranty to

which any provision of this title applies. Such rules shall provide for participation in such procedure by independent or governmental entities.

(3) One or more suppliers may establish an informal dispute settlement procedure which meets the requirements of the Commission's rules under paragraph (2). If—

(A) a supplier establishes a procedure which meets such requirements and he incorporates in a warranty a requirement that the consumer resort to such procedure before pursuing any legal remedy under this section respecting such warranty, and

(B) the Commission has not found, under paragraph (4), that such procedure or its implementation fails to comply with rules under paragraph (2),

then (i) the consumer may not commence a civil action (other than a class action) under subsection (d) of this section unless he initially resorts to such procedure; and (ii) a class of consumers may not proceed in a class action under subsection (d) except to the extent the court determines necessary to establish the representatives capacity of the named plaintiffs, unless the named plaintiffs (upon notifying the defendant that they are named plaintiffs in a class action with respect to a warranty obligation) initially resort to such procedure. In any civil action arising out of a warranty obligation and relating to a matter considered in such a procedure, any decision in such procedure shall be admissible in evidence. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of Rule 23 of the Federal Rules of Civil Procedure for the District Courts of the United States.

(4) The Commission on its own initiative may, or upon written complaint filed by any interested person shall, review the bona fide operation of any dispute settlement procedure resort to which is stated in the consumer product warranty to be a prerequisite to pursuing a legal remedy under this section. If the Commission finds that such procedure or its implementation fails to comply with the requirements of the rules under paragraph (2), the Commission may take appropriate remedial action under any authority it may have under this title or any other provision of law.

(b) It shall be a violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any person to fail to comply with any requirement imposed on such person by or pursuant to this title or to violate any prohibition contained in this title.

(c)(1) The district courts of the United States shall have jurisdiction of any action brought by the Commission to restrain (A) any supplier from making a deceptive warranty with respect to a consumer project, or (B) any person from failing to comply with any requirement imposed on such person by or pursuant to this title or from violating any prohibition contained in this title. Upon proper showing that, weighing the equities and considering the Commission's likelihood of ultimate success, such action would be in the public interest and after notice to the defendant, a temporary restraining order or preliminary injunction may be granted without bond. If a complaint under section 5 of the Federal Trade Commission Act is not filed within such period (not exceeding ten days) as may be specified by the court after the issuance of the temporary restraining order or preliminary injunction, the order or injunction shall be dissolved by the court and be of no further force and effect. Any such suit shall be brought in the district in which such person, partnership, or corporation resides or transacts business. Whenever it appears to the court that the ends of justice require that other persons should be parties in the action, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and to that end process may be served in any district.

(2) For the purposes of this subsection, the term "deceptive warranty" means (A) a warranty (as defined in section 101(10)) which (i) contains an affirmation, promise, description, or representation which is either false or fraudulent, or which, in light of all of the circumstances would mislead a reasonable individual exercising due care; or (ii) fails to contain information that is necessary in light of all of the circumstances, to make the warranty not misleading to a reasonable individual exercising due care; or (B) a warranty (as so defined) created by the use of such terms as "guaranty" or "warranty", if the terms and conditions of such warranty so limit its scope and application as to deceive a reasonable individual.

(d)(1) Subject to subsections (a)(3) and (e), a consumer who is damaged by the failure of a supplier to comply with any obligation under this title, or under a warranty or service contract (as defined in section 101(10) and (11)), may bring suit—

(A) in any court of competent jurisdiction in any State or the District of Columbia; or

(B) in an appropriate district court of the United States, subject to paragraph (3) of this subsection.

(2) If a consumer finally prevails in any action brought under paragraph (1) of this subsection, he may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorneys' fees based on actual time expended) determined by the court to have been reasonably incurred by the plaintiff for or in connection with the institution and prosecution of such action, unless the court in its discretion shall determine that such an award of attorneys' fees would be inappropriate.

(3) No claim shall be cognizable in a suit brought under paragraph (1)(B) of this subsection—

(A) unless each individual claim exceeds the sum or value of $25;

(B) unless the matter in controversy exceeds the sum or value of $50,000 (exclusive of interests and costs) computed on the basis of all claims to be determined in this suit; and

(C) if action is brought as a class action, unless the number of named plaintiffs equals or exceeds one hundred.

(e) No action (other than a class action or an action respecting a warranty to which subsection (a)(3) applies) may be brought under subsection (d) for breach of any warranty or service contract, and a class of consumers may not proceed in a class action under such subsection with respect to such a breach except to the extent the court determines necessary to establish the representative capacity of the named plaintiffs, unless the person obligated under the warranty or service contract is afforded a reasonable opportunity to cure such breach. In the case of such a class action (other than a class action respecting a warranty to which subsection (a)(3) applies) brought under subsection (d) for breach of any warranty or service contract, such reasonable opportunity will be afforded by the named plaintiffs and they shall at that time notify the defendant that they are acting on behalf of the class. In the case of such a class action which is brought in a district court of the United States, the representative capacity of the named plaintiffs shall be established in the application of rule 23 of the Federal Rules of Civil Procedure for the District Courts of the United States.

(f) For purposes of this section, only the supplier actually making a written affirmation of fact, promise, or undertaking shall be deemed to have created a warranty described in section 101(10)(A), and any rights arising thereunder may be enforced under this section only against such supplier and no other person.

EFFECT ON OTHER LAWS

SEC. 111. (a)(1) Nothing contained in this title shall be construed to repeal, invalidate, or supersede the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any statute defined therein as an Antitrust Act.

(2) Nothing in this title shall be construed to repeal, invalidate, or supersede the Federal Seed Act (77 U.S.C. 1551–1611) and nothing in this title shall apply to seed for planting.

(b)(1) Nothing in this title shall invalidate or restrict any right or remedy of any consumer under State law.

(2) Nothing in this title shall affect the liability of, or impose liability on, any person for personal injury.

(c)(1) Except as provided in subsection (b) and in paragraph (2) of this subsection, a State requirement—

(A) which relates to labeling, disclosure, or other matters (i) respecting written warranties or performance thereunder and (ii) within the scope of an applicable requirement of sections 102, 103, and 104 (and rules implementing such sections), and

(B) which is not identical to a requirement of section 102, 103, or 104 (or a rule thereunder),

shall not be applicable to warranties complying with such sections (or rules thereunder).

(2) If, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with section 109) that any requirement of such State covering any transaction to which this title applies (A) affords protection to consumers greater than the requirements of this title and (B) does not unduly burden interstate commerce, then such State requirement shall be applicable (notwithstanding the provisions of paragraph (1) of this subsection) to the extent specified in such determination for as long as the State continues to administer and enforce effectively any such greater requirement.

(d) This title (other than section 102(c)) shall be inapplicable to any warranty the making or content of which is otherwise governed by Federal law. If only a portion of a written warranty is so governed by Federal law, the remaining portion shall be subject to this title.

EFFECTIVE DATE

SEC. 112. (a) Except as provided in subsection (b) of this section, this title shall take effect six months after the date of its enactment but shall not apply to consumer products manufactured prior to such date.

(b) Those requirements in this title which cannot be reasonably met without the promulgation of rules by the Commission shall take effect six months after the final publication of such rules; except that the Commission, for good cause shown, may provide designated classes of suppliers up to an additional six months to bring their written warranties into compliance with rules promulgated pursuant to this title.

(c) The Commission shall promulgate rules for initial implementation of this title as soon as possible after the date of enactment of this Act but in no event later than one year after the date of enactment of this Act.

TITLE II—FEDERAL TRADE COMMISSION IMPROVEMENTS

JURISDICTION OF COMMISSION

SEC. 201. (a) Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by striking out "in commerce" wherever it appears and inserting in lieu thereof "in or affecting commerce".

(b) Subsections (a) and (b) of section 6 of the Federal Trade Commission Act (15 U.S.C. 46) are each amended by strking out "in commerce" and inserting in lieu thereof "in or whose business affects commerce".

(c) Section 12 of the Federal Trade Commission Act (15 U.S.C. 52) is amended by striking out "in commerce" wherever it appears and inserting in lieu thereof in subsection (a) "in or having an effect upon commerce," and in subsection (b) "in or affecting commerce".

RULEMAKING AUTHORITY

SEC. 202. (a) The Federal Trade Commission Act is amended by redesignating section 18 as section 19, and inserting after section 17 the following new section:

"RULEMAKING

"SEC. 18. (a)(1) The Commission shall have the power to issue (A) procedural, administrative, and advisory rules, and (B) rules defining with specificity acts or practices which are unfair or deceptive and which are within the scope of section 5(a)(1) of this Act. The Commission shall have no authority under this Act, other than its authority under this section, to prescribe rules.

"(2)(A) When issuing rules under paragraph (1)(B) of this subsection, the Commission shall proceed in accordance with section 553 of title 5, United States Code (not including any reference to sections 556 and 557), and shall also: (i) issue an order of proposed rulemaking stating with particularity the reason for the proposed rule; (ii) allow interested persons to comment on the proposed rule in writing and make all such comments publicly available; (iii) provide an opportunity for an informal hearing at which interested persons may comment orally on the proposed rule; and (iv) promulgate, if appropriate, a final rule together with a statement of basis and purpose based on the information and comments compiled in accordance with clauses (i), (ii), and (iii). A verbatim transcript of any oral hearing under clause (iii) shall be taken and such transcript shall be publicly available.

"(B) The Commission shall afford the following process for its hearings pursuant to subparagraph (A)(iii) of this paragraph:

"(i) Subject to clauses (ii) and (iii) of this subparagraph, a party is entitled to present his position by oral or documentary evidence and to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of all disputed issues of material fact.

"(ii) The Commission may make such rules and rulings concerning proceedings in such hearings as may tend to avoid unnecessary costs or delay.

"(iii) When parties with the same or similar interests cannot agree upon a single representative, the Commission may make rules and rulings governing the manner in which such cross-examination is limited; but when any party has the same or similar interests with other parties but is unable to agree upon group representation with these parties, such party shall not be denied the opportunity to conduct cross-examination as to issues affecting his particular interests if he shows to the satisfaction of the Commission that he has made a good faith effort to reach agreement upon group representation with the other parties having same or similar interests and that there are substantial issues which are not adequately presented by the group representative.

"(C) The agency statement to accompany the adoption of a rule shall include, among other things, statements (i) as to extent of the acts and practices treated by the rule; (ii) as to the manner in which and extent to which such acts or practices are unfair or deceptive; and (iii) as to the economic impact of the rule, taking into account the impact on small business.

"(D) When any rule under this paragraph (2) is promulgated and becomes final a subsequent violation thereof shall constitute an unfair or deceptive act or practice in violation of section 5(a)(1) of this Act, unless the Commission otherwise expressly provides in the rule.

"(E) The term 'Commission' as used in this paragraph (2) includes anyone authorized to act in behalf of the Commission in any part of the conduct of the rulemaking process.

"(3)(A) Not later than sixty days after a rule to which paragraph (2) of this subsection applies is prescribed by the Commission, any person adversely affected by such rule (including a consumer or consumer organization) may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides or has his principal place of business for a judicial review of such rule. Copies of the petition shall be forthwith transmitted by the clerk of the court to the Commission or other officer designated by it for that purpose. The Commission shall file in the court the record of the proceedings on which the Commission based its rule as provided in section 2112 of title 28, United States Code. For purposes of this section, the term 'record' means such rule, the transcript required by paragraph (2)(A) of any oral presentation, any written submission of interested parties, and any other information which the Commission considers relevant to such rule.

"(B) If the petitioner applies to the court for leave to adduce additional data, views, or arguments and shows to the satisfaction of the court that such data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceeding before the Commission, the court may order the Commission to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions. The Commission may modify its statement or make a new statement by reason of the additional data, views, or arguments so taken and shall file such modified or new statement, and its recommendations, if any, for the modification or setting aside of its original rule, with the return of such additional data, views, or arguments.

"(C) Upon the filing of the petition under subparagraph (A) of this paragraph, the court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. The rule shall not be affirmed unless the Commission's action is supported by substantial evidence in the record taken as a whole.

"(D) The judgment of the court affirming or setting aside, in whole or in part, any such rule shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(E) Remedies under this paragraph (3) are in addition to and not in lieu of any other remedies provided by law.

"(b)(1) In order to prevent unfair or deceptive acts or practices in or affecting commerce (including acts or practices which are unfair or deceptive to a consumer) by banks, each agency specified in paragraph (2) of this subsection shall establish a separate division of consumer affairs which shall receive and take appropriate action upon complaints with respect to such acts or practices by banks subject to its jurisdiction. The Board of Governors of the Federal Reserve System shall prescribe regulations to carry out the purposes of this section, including regulations defining with specificity such unfair or deceptive acts or practices. In carrying out its responsibilities under this subsection, the Board shall issue substantially similar regulations proscribing acts or practices of banks which are substantially similar to those proscribed by rules of the Commission within sixty days of the effective date of such Commission rules unless the Board finds that such acts or practices of banks are not unfair or deceptive to consumers or it finds that implementation of similar regulations with respect to banks would seriously conflict with essential monetary and payments systems policies of the Board, and publishes any such finding, and the reasons therefor, in the Federal Register.

"(2) Compliance with the requirements imposed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks and banks operating under the code of law for the District of Columbia, by the division of consumer affairs established by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than banks referred to in subparagraph (A)) by the division of consumer affairs established by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than banks referred to in subparagraph (A) or (B)), by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation.

"(3) For the purpose of the exercise by any agency referred to in paragraph (2) of its powers under any Act referred to in that paragraph, a violation of any requirement imposed under this subsection shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (2), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with any requirement imposed under this subsection, any other authority conferred on it by law.

"(4) The authority of the Board of Governors of the Federal Reserve System to issue regulations under this subsection does not impair the authority of any other agency designated in this subsection to make rules respecting its own procedures in enforcing compliance with requirements imposed under this subsection.

"(5) Each agency exercising authority under this subsection shall transmit to the Congress not later than March 15 of each year a detailed report on its activities under this paragraph during the preceding calendar year.

"(c)(1) Any person to whom a rule under subsection (a)(1)(B) of this section applies may petition the Commission for an exemption from the rule based on special circumstances. If the petitioner satisfies the Commission that special circumstances are applicable to him, the Commission shall grant the petitioner an exemption from such rule. Paragraphs (2)(A), (2)(B), and (2)(E) of subsection (a) of this section shall apply to petitions for exemptions under this subsection to the same extent as such paragraphs apply to rules under paragraphs (1)(B) of subsection (a).

"(2) For purposes of this subsection, the term 'special circumstances' means factors which are applicable to a particular petitioner (as distinguished from others subject to the rule) and which are so different or unique that applying the rule to the petitioner would result in significant hardship which would outweigh any public benefit resulting from application of the rule to the petitioner.

"(3) Neither the pendency of an application under this subsection for an exemption from a rule, nor the pendency of judicial proceedings to review the Commission's action under this subsection, shall stay the applicability of such rule.

"(4) Judicial review of the Commission's action or failure to act under paragraph (1) of this subsection shall be in accordance with

chapter 7 of title 5, United States Code. The Commission's action shall not be affirmed unless it is supported by substantial evidence in the record taken as a whole (including any material evidence in the record of the rulemaking proceeding for the rule from which the exemption is sought)."

(b) Section 6(g) of the Federal Trade Commission Act (15 U.S.C. 46(g)) is amended to read as follows:

"(g) From time to time to classify corporations."

(c)(1) The amendments made by subsections (a) and (b) of this section shall not affect the validity of any rule which was promulgated under section 6(g) of the Federal Trade Commission Act prior to the date of enactment of this section. Any proposed rule under section 6(g) of such Act with respect to which presentation of data, views, and arguments was substantially completed before such date may be promulgated in the same manner and with the same validity as such rule could have been promulgated had this section not been enacted.

(2) If a rule described in paragraph (1) of this subsection is valid, any substantive change in the rule after it is promulgated shall be made in accordance with section 18 of the Federal Trade Commission Act (added by this section).

INVESTIGATIVE AUTHORITY

SEC. 203. (a)(1) Section 6(a) of the Federal Trade Commission Act is amended by striking out "corporation" and inserting "person, partnership, or corporation" and by striking out "corporations and to individuals, associations, and partnerships", and inserting in lieu thereof "persons, partnerships, and corporations".

(2) Section 6(b) of such Act is amended by striking out "corporations" where it first appears and inserting in lieu thereof "persons, partnerships, and corporations,", and by striking out "respective corporations" and inserting in lieu thereof "respective persons, partnerships, and corporations".

(3) The proviso at the end of section 6 of such Act is amended by striking out "any such corporation to the extent that such action is necessary to the investigation of any corporation, group of corporations," and inserting in lieu thereof "any person, partnership, or corporation to the extent that such action is necessary to the investigation of any person, partnership, or corporation, group of persons, partnerships, or corporations,".

(b)(1) The first paragraph of section 9 of such Act is amended by striking out "corporation" where it first appears and inserting in lieu thereof "person, partnership, or corporation".

(2) The third paragraph of section 9 of such Act is amended by striking out "corporation or other person" both places where it appears and inserting in each such place "person, partnership, or corporation".

(3) The fourth paragraph of section 9 of such Act is amended by striking out "person or corporation" and inserting in lieu thereof "person, partnership, or corporation".

(c)(1) The second paragraph of section 10 of such Act is amended by striking out "corporation" each place where it appears and inserting in lieu thereof in each such place "person, partnership, or corporation".

(2) The third paragraph of section 10 of such Act is amended by striking out "corporation" where it first appears and inserting in lieu thereof "persons, partnership, or corporation"; and by striking out "in the district where the corporation has its principal office or in any district in which it shall do business" and inserting in lieu thereof "in the case of a corporation or partnership in the district where the corporation or partnership has its principal office or in any district in which it shall do business, and in the case of any person in the district where such person resides or has his principal place of business".

REPRESENTATION

SEC. 204. (a) Section 5(m) of the Federal Trade Commission Act (15 U.S.C. 45(m)) is amended to read as follows:

"(m) For the purpose of enforcing the laws subject to its jurisdiction, the Commission shall have the power, with the concurrence of the Attorney General, to appear in any civil action in its own name and through its own legal representative."

(b) Section 16(b) of such Act is amended by striking out "after compliance with the requirements with section 5(m)" and insert in lieu thereof "with the concurrence of the Attornel General".

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated to carry out the functions, powers, and duties of the Federal Trade Commission not to exceed $41,000,000 for the fiscal year ending June 30, 1975; not to exceed $45,000,000 for the fiscal year ending June 30, 1976; and not to exceed $49,000,000 for the fiscal year ending June 30, 1977. For fiscal years ending after June 30, 1977, there may be appropriated only such sums as the Congress may hereafter authorize by law.

Amend the title so as to read: "An Act to provide minimum disclosure standards for written consumer product warranties against defect or malfunction; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; to authorize appropriations for the Federal Trade Commission for fiscal years 1975, 1976, and 1977; and for other purposes."

Mr. MOSS. Mr. President, I move that the Senate disagree to the amendments of the House of Representatives and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. MOSS, and Mr. STEVENS conferees on the part of the Senate.

ORDER FOR THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORTS UNTIL 6 P.M. TODAY

Mr. MANSFIELD. Mr. President, before calling up Calendar Nos. 1160 and 1161, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to file reports until 6 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 420—AUTHORIZATION FOR PAYMENT OF SALARIES TO STAFF OF OFFICE OF THE VICE PRESIDENT

Mr. MANSFIELD. Mr. President. I send to the desk a resolution on behalf of the distinguished Republican leader and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 420) to authorize payment of salaries to staff of office of the Vice President.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the resolution.

The Senate proceeded to consider the resolution.

Mr. MANSFIELD. Mr. President, the reason for this resolution is that the Nation is still without a Vice President, and until that matter is settled we will have to operate on this basis to make sure there is at least a skeleton staff in existence.

The resolution (S. Res. 420) was agreed to, as follows:

Resolved, That the clerical and other assistants continued on the payroll of the Senate under authority of Senate Resolution 379, agreed to August 9, 1974, are hereby further continued on the payroll of the Senate, at their respective salaries in effect on the date this resolution is agreed to, for a period not to exceed ten days after the current Vice Presidential nominee is confirmed or not confirmed, such sums to be paid from the contingent fund of the Senate: *Provided*, That any such assistance continued on the payroll, while so continued, shall perform their duties for which employed and the Secretary of the Senate is hereby authorized and directed to remove from such payroll any such assistants who are not attending to the duties for which their services are continued.

CONSIDERATION OF CERTAIN MEASURES ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 1160 and 1161.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVEYANCE OF LAND TO THE NEW MEXICO STATE UNIVERSITY

The Senate proceeded to consider the bill (H.R. 5641) to authorize the conveyance of certain lands to the New Mexico State University, Las Cruces, N. Mex.

The bill was considered, ordered to a third reading, read the third time, and passed.

DESIGNATING OF LANDS IN THE FARALLON NATIONAL WILDLIFE REFUGE, AND POINT REYES NATIONAL SEASHORE

The Senate proceeded to consider the bill (H.R. 11013) to designate certain lands in the Farallon National Wildlife Refuge, Calif., as wilderness, to add certain lands to the Point Reyes National Seashore; and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with an amendment, on page 2, beginning with line 9, strike out:

SEC. 201. Section 2 of the Act of September 13, 1962 (76 Stat. 538), as amended (16 U.S.C. 459C 1), is further amended by including the following new subsection (c):

"(c) The Point Reyes National Seashore shall include, in addition to those lands hereinbefore described, such lands as are depicted on the map entitled 'Planning Map, Point Reyes National Seashore, Marin County, Cali-

fornia', numbered 8530/30006A and dated February 1974, to which a legal description of such lands shall be attached. For the purposes of this subsection, there are authorized to be appropriated for the acquisition of lands such sums as may be necessary, but not to exceed $200,000."

And insert in lieu thereof:

SEC. 201. (Subsection (a) of section 2 of the Act of September 13, 1962 (76 Stat. 538), describing the boundaries of the Point Reyes National Seashore, California, is amended to read as follows:

"SEC. 2. (a) The area comprising that portion of the land and waters located on Point Reyes Peninsula, Marin County, California, which shall be known as the Point Reyes National Seashore, is described as the area within the boundaries generally depicted on the map entitled 'Boundary Map, Point Reyes National Seashore, Marin County, California', numbered 612-80,008-B, and dated August 1974, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.".

SEC. 202. The Secretary of the Interior shall, as soon as practicable after the date of enactment of this title, publish an amended description of the boundaries of the Point Reyes National Seashore in the Federal Register, and thereafter he shall take such action with regard to such amended description and the map referred to in section 201 of this title as is required in the second sentence of subsection (b) of section 4 of the Act of September 13, 1962, as amended.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

THE IMPENDING RECESS

Mr. HUGH SCOTT. Mr. President, will the distinguished majority leader further yield?

Mr. MANSFIELD. Yes, indeed.

Mr. HUGH SCOTT. The indication has been given that we should be able to recess at the close of business Friday, October 11. May I inquire whether, if we can dispose of the bills that the majority leader has mentioned, plus a supplemental, if deemed feasible, plus the continuing resolution on foreign assistance, there exists a possibility or does there exist a possibility, that we may be able to leave somewhat earlier? I have been asked this question, so I repeat it.

Mr. MANSFIELD. Well, if all those bits and pieces which the distinguished Senator from Pennsylvania referred to are completed, I would say the chances are good. But, as of now, I would not bet on it.

Mr. HUGH SCOTT. I understand that if the continuing resolution is not passed, then I would express the hope that we will, if it is voted down, stay here until we get some kind of a continuing resolution to permit the Government to function in those agencies which are impaired or impeded by the failure to pass the resolution.

Mr. MANSFIELD. We will. We will stay in until that matter is disposed of because we have no choice, and the Senate should be made aware of the fact that if there is no continuing resolution, in view of the circumstances which have developed and the probabilities of the damage it may entail, the Senate will have no choice but to stay in session beyond Friday into the week following, if necessary, to dispose of that matter.

Mr. HUGH SCOTT. I thank the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERSONNEL CAPTURED, KILLED, OR MISSING DURING INDOCHINA CONFLICT

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 81.

The PRESIDING OFFICER (Mr. GRIFFIN) laid before the Senate the amendments of the House of Representatives to the concurrent resolution (S. Con. Res. 81) relating to unaccounted for personnel captured, killed, or missing during the Indochina conflict, which were to strike out all after the resolving clause, and insert:

That it is the sense of Congress that it shall be the policy of the United States that the Government of the United States shall cease forthwith all consideration of aid, trade, diplomatic recognition, or accommodation with the Democratic Republic of North Vietnam or the Provisional Revolutionary Government (Viet Cong) until such time as the aforesaid agreements are complied with to the fullest extent.

SEC. 2. In order to maximize public concern for those who are still missing in action in Southeast Asia as well as to honor suitably the memory of those who served and died there, the Congress hereby authorizes and calls upon the President to—

(1) cooperate with and encourage local officials and civic leaders across the Nation to dedicate and suitably mark individual trees in local ceremonies as living commemoration to former residents who are still missing as a result of the fighting in Southeast Asia, as well as to all those who served and died there; and

(2) dedicate and suitably mark a national commemorative tree or national commemorative grove of trees at an appropriate location as a national living commemoration to all those who are still missing in Southeast Asia as well as to all those who served and died there.

Such ceremonies shall, to the extent possible, be coordinated for implementation upon Memorial Day next.

Strike out the preamble, and insert:

Whereas the Government of the Democratic Republic of North Vietnam and the Provisional Revolutionary Government (Viet Cong) have failed to live up to article 8, paragraph (b) and the protocol in article 10 of the January 27, 1973, agreements and the explanatory statement on the same article contained in the June 13, 1973, agreements, all of which relate to facilitating the location and care of graves of the dead, exhumation, and repatriation of the remains as well as to obtain information on those still considered missing in action; and

Whereas the Lao Patriotic Front (Pathet Lao) has failed to live up to its obligations under the agreement of September 14, 1973; and

Whereas the United States has ceased all military activity in South Vietnam, Cambodia, and Laos as of August 15, 1973: Now, therefore, be it

And amend the title so as to read: "Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia."

Mr. ROBERT C. BYRD. Mr. President, I have been asked to move, and I do move that the Senate disagree to the amendments of the House of Representatives and request a conference with the House of Representatives on the disagreeing votes of the two houses thereon; and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. FULBRIGHT, Mr. SPARKMAN, Mr. MANSFIELD, Mr. AIKEN, and Mr. CASE conferees on the part of the Senate.

THE NOMINATION OF PETER FLANIGAN AS AMBASSADOR TO SPAIN

Mr. ROBERT C. BYRD. Mr. President, paragraph 6 of rule XXXVIII of the Standing Rules of the Senate reads as follows:

6. Nominations neither confirmed nor rejected during the session at which they are made shall not be acted upon at any succeeding session without being again made to the Senate by the President; and if the Senate shall adjourn or take a recess for more than thirty days, all nominations pending and not finally acted upon at the time of taking such adjournment or recess shall be returned by the Secretary to the President, and shall not again be considered unless they shall again be made to the Senate by the President.

Mr. President, the nomination of Mr. Peter Flanigan has been submitted to the Senate by the President of the United States, the nomination being for an ambassadorship to Spain. The Committee on Foreign Relations as I understand it, has not completed its consideration of that nomination.

I merely wish to state for the record at this time that it will be my purpose and my intention to object to any unanimous-consent request to waive paragraph 6 of rule XXXVIII of the Standing Rules of the Senate with respect to the nomination of Mr. Flanigan—and that nomination only—if such request is made prior to the upcoming recess.

ORDERS FOR RECOGNITION OF SENATOR CURTIS, SENATOR McCLURE, AND SENATOR MANSFIELD ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Mr. CURTIS be recognized for not to exceed 15 minutes; Mr. McCLURE be recognized for not to exceed 15 minutes; and Mr. MANSFIELD be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of Senators under the orders previously entered, there be a period for the transaction of routine morning business on Monday next, not to extend beyond 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 4057—HAZARDOUS SUBSTANCES BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of routine morning business on Monday next, the Senate proceed to the consideration of the so-called hazardous substances bill, S. 4057.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROLLCALL VOTES TO OCCUR AFTER 4 P.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if rollcall votes are ordered on Monday on any measure or motion, or other matter, such rollcall votes not occur prior to the hour of 4 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. HUGH SCOTT. Mr. President, I rise to ask the majority leader to tell us the schedule for the rest of the day, expressing the hope that it will be minimal, and to inquire as to the program for next week, so that we may inform Senators, when does the recess begin and when does it end, and anything else he wishes to contribute that will reassure Senators that it is all right to go home at some time certain.

Mr. MANSFIELD. Mr. President, as the distinguished Republican leader knows, we have discussed this matter, and it is our intention, all vital legislation being passed, to recess on Friday, the 11th, and to come back on November 12 or 13.

In the meantime, we may have a supplemental appropriation bill. I am not so certain of that at the moment.

We will have to dispose of the continuing resolution one way or the other. I understand that the House of Representatives will not get to that until later next week, because of the piling up of legislation already agreed to for consideration, plus the continuing consideration of the House legislative reform proposals. So it all depends.

But as of now, it is anticipated that Calendar No. 1135, S. 4057, the so-called hazardous materials bill will be taken up on Monday; also Calendar No. 1136, S. 3957, the national emergencies bill; and also Calendar No. 1151, S. 2106, the limitation on the term of the Director of the FBI. Those three measures will be taken up on Monday if at all possible.

On Tuesday, under the agreement reached, unless it is changed in the meantime—and I do not anticipate it will be—we will take up a bill to amend the Communications Act of 1934, Calendar No. 1133, H.R. 12993. We have a time limitation on that.

We hope also that it will be possible on Tuesday or Wednesday to begin consideration of the so-called deepwater ports bill, Calendar No. 1153, S. 4076.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO MONDAY, OCTOBER 7, 1974

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon on Monday next.

The motion was agreed to; and at 2:47 p.m. the Senate adjourned until Monday, October 7, 1974, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4, 1974:

DEPARTMENT OF JUSTICE

John A. Birknes, Jr., of Massachusetts, to be U.S. marshal for the district of Massachusetts for the term of 4 years.

DEPARTMENT OF DEFENSE

Will Hill Tankersley, of Alabama, to be Deputy Assistant Secretary of Defense for Reserve Affairs.

Harold L. Brownman, of Maryland, to be an Assistant Secretary of the Army.

H. Tyler Marcy, of Massachusetts, to be an Assistant Secretary of the Navy.

Gary Dean Penisten, of Connecticut, to be an Assistant Secretary of the Navy.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

IN THE AIR FORCE

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Eugene F. Tighe, Jr., [redacted]FR (brigadier general, Regular Air Force), U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force under the provisions of chapters 35 and 837, title 10 of the United States Code:

To be major general

Maj. Gen. John J. Pesch, [redacted]FG, Air National Guard.

To be brigadier general

Brig. Gen. John T. Guice, [redacted]FG, Air National Guard.

The following officer under the provisions of title 10, United States Code, section 8066 to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Howard M. Fish, [redacted]FR (major general, Regular Air Force), U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) and section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Samuel Vaughn Wilson, [redacted] Army of the United States (brigadier general, U.S. Army).

The following-named officer for reappointment to the active list of the Regular Army and Army of the United States with grade as indicated, from the temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be brigadier general, Regular Army, and brigadier general, Army of the United States

Pearson White Brown, [redacted]

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of major general:

Victor A. Armstrong	William R. Quinn
Wilbur F. Simlik	Francis W. Vaught
William G. Joslyn	Robert L. Nichols

The following-named officers of the Marine Corps for permanent appointment to the grade of brigadier general:

Nolan J. Beat	William J. White
Edward A. Parnell	Noah C. New
Thurman Owens	Harold L. Coffman
Edward B. Meyer	Maurice C. Ashely, Jr.

IN THE AIR FORCE, ARMY, NAVY AND MARINE CORPS

Air Force nominations beginning Maj. George R. Armitage, Jr., to be lieutenant colonel, and ending Maj. Daniel B. Jackson, to be lieutenant colonel, which nominations were received by the Senate August 23, 1974, and appeared in the Congressional Record on September 4, 1974.

Air Force nominations beginning Allan E. Aaronson, to be colonel, and ending William L. Williams, to be colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 12, 1974.

Air force nominations beginning Peter J. Abadie, to be first lieutenant, and ending Harvey J. Ziegler, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 1974.

Army nominations beginning Allan C. Ashcraft, to be colonel, and ending Archie J. Woodin, to be lieutenant colonel, which nominations were received by the Senate August 23, 1974, and appeared in the Congressional Record on September 4, 1974.

Army nominations beginning George C. Ackley, Jr., to be lieutenant colonel, and ending Marie Diaz Ramirez, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 4, 1974.

Navy nominations beginning Charles R. Adams, to be lieutenant (jg.), and ending Lt. (jg.) Michael R. Hargrave, for permanent grade of ensign, which nominations were received by the Senate August 23, 1974, and appeared in the Congressional Record on September 4, 1974.

Navy nominations beginning Dana M. Broach, to be ensign, and ending Delmar Herron, to be a permanent chief warrant officer, which nominations were received by the Senate August 29, 1974, and appeared in the Congressional Record on September 4, 1974.

Navy nominations beginning Michael R. Appleby, to be lieutenant, and ending Barbara Zulak, to be lieutenant, which nominations were received by the Senate August 29, 1974, and appeared in the Congressional Record on September 4, 1974.

Navy nominations beginning Winfred G. Aker, to be ensign, and ending Ernest W. Hunt, Jr., to be commander, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 1974.

Navy nominations beginning Thomas Henry Abernathy, to be lieutenant, and ending Michael Thomas Zurfluh, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 16, 1974.

Navy nominations beginning Robert U. Bregman, to be commander, and ending Wayne B. Goodermote, to be a permanent lieutenant and a temporary lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 1974.

The nomination of Donald R. Navorska, U.S. Marine Corps, for reappointment to the grade of lieutenant colonel, which nomination was received by the Senate August 23, 1974, and appeared in the Congressional Record on September 4, 1974.

The nomination of John R. Bell, U.S. Marine Corps, for reappointment to the grade of captain, which nomination was received by the Senate August 23, 1974, and appeared in the Congressional Record on September 4, 1974.

The nomination of Maj. Jack T. Kline, U.S. Marine Corps, to be lieutenant colonel, which nomination was received by the Senate and appeared in the Congressional Record on September 17, 1974.

The nomination of William C. Shaver, U.S. Marine Corps, to be major, which nomination was received by the Senate and appeared in the Congressional Record on September 17, 1974.

HOUSE OF REPRESENTATIVES—*Friday, October 4, 1974*

CONFERENCE REPORT ON SOLAR ENERGY

Mr. TEAGUE (pursuant to an order of the House on October 3, 1974) filed the following conference report and statement on the bill (S. 3234) to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of solar energy as a viable source for our national energy needs, and for other purposes:

CONFERENCE REPORT (H. REPT. 93–1428)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3234) to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of solar energy as a viable source for our national energy needs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Solar Energy Research, Development, and Demonstration Act of 1974".

DECLARATION OF FINDINGS AND POLICY

SEC. 2. (a) The Congress hereby finds that—

(1) the needs of a viable society depend on an ample supply of of energy;

(2) the current imbalance between domestic supply and demand for fuels and energy is likely to persist for some time;

(3) dependence on nonrenewable energy resources cannot be continued indefinitely, particularly at current rates of consumption;

(4) it is in the Nation's interest to expedite the long-term development of renewable and nonpolluting energy resources, such as solar energy;

(5) the various solar energy technologies are today at widely differing stages of development, with some already near the stage of commercial application and others still requiring basic research;

(6) the early development and export of viable equipment utilizing solar energy, consistent with the established preeminence of the United States in the field of high technology products, can make a valuable contribution to our balance of trade;

(7) the mass production and use of equipment utilizing solar energy will help to eliminate the dependence of the United States upon foreign energy sources and promote the national defense;

(8) to date, the national effort in research, development, and demonstration activities relating to the utilization of solar energy has been extremely limited; therefore

(9) the urgency of the Nation's critical energy shortages and the need to make clean and renewable energy alternatives commercially viable require that the Nation undertake an intensive research, development, and demonstration program with an estimated Federal investment which may reach or exceed $1,000,000,000.

(b) The Congress declares that it is the policy of the Federal Government to—

(1) pursue a vigorous and viable program of research and resource assessment of solar energy as a major source of energy for our national needs; and

(2) provide for the development and demonstration of practicable means to employ solar energy on a commercial scale.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "solar energy" means energy which has recently originated in the Sun, including direct and and indirect solar radiation and intermediate solar energy forms such as wind, sea thermal gradients, products of photosynthetic processes, organic wastes, and others;

(2) the term "byproducts" includes, with respect to any solar energy technology or process, any solar energy products (including energy forms) other than those associated with or constituting the primary product of such technology or process;

(3) the term "isolation" means the rate at which solar energy is received at the surface of the Earth;

(4) the term "Project" means the Solar Energy Coordination and Management Project; and

(5) the term "Chairman" mean the Chairman of the Project.

SOLAR ENERGY COORDINATION AND MANAGEMENT PROJECT

SEC. 4. (a) There is hereby established the Solar Energy Coordination and Management Project.

(b)(1) The Project shall be composed of six members as follows:

(A) an Assistant Director of the National Science Foundation;

(B) an Assistant Secretary of Housing and Urban Development;

(C) a member of the Federal Power Commission;

(D) an Associate Administrator of the National Aeronautics and Space Administration;

(E) the General Manager of the Atomic Energy Commission; and

(F) a member to be designated by the President.

(2) The President shall designate one member of the Project to serve as Chairman of the Project.

(3) If the individual designated under paragraph (1)(F) is an officer or employee of the Federal Government, he shall receive no additional pay on account of his service as a member of the Project. If such individual is not an officer or empolyee of the Federal Government, he shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for level IV of the Executive Schedule (5 U.S.C. 5315) for each day (including traveltime) during which he is engaged in the actual performance of duties vested in the Project.

(c) The Project shall have overall responsibility for the provision of effective management and coordination with respect to a national solar energy research, development, and demonstration program, including—

(1) the determination and evaluation of the resource base, including its temporal and geographic characteristics;

(2) research and development on solar energy technologies; and

(3) the demonstration of appropriate solar energy technologies. (d)(1) The Project shall carry out its responsibilities under this section in cooperation with the following Federal agencies:

(A) the National Science Foundation, the responsibilities of which shall include research;

(B) the National Aeronautics and Space Administration, the responsibilities of which shall include the provision of management capability and the development of technologies;

(C) the Atomic Energy Commission, the responsibilities of which shall include the development of technologies;

(D) the Department of Housing and Urban Development, the responsibilities of which shall include fostering the utilization of solar energy for the heating and cooling of buildings, pursuant to the Solar Heating and Cooling Demonstration Act of 1974 (P.L. 93-409; 88 Stat. 1069), and

(E) the Federal Power Commission, the responsibilities of which shall include fostering the utilization of solar energy for the generation of electricity and for the production of synthetic fuels.

(2) Upon request of the Chairman, the head of any such agency is authorized to detail or assign, on a reimbursable basis or otherwise, any of the personnel of such agency to the Project to assist it in carrying out its responsibilities under this Act.

(e) The Project shall have exclusive authority with respect to the establishment or approval of programs or projects initiated under this Act, but the agency involved in any particular program or project shall be responsible for the operation and administration of such program or project.

(f) The National Aeronautics and Space Administration is authorized to undertake and carry out those programs assigned to it by the Project.

RESOURCE DETERMINATION AND ASSESSMENT

SEC. 5. (a) The Chairman shall initiate a solar energy resource determination and assessment program with the objective of making a regional and national appraisal of all solar energy resources, including data on insulation, wind, sea thermal gradients, and potentials for photosynthetic conversion. The program shall emphasize identification of promising areas for commercial exploitation and development. The specific goals shall include—

(1) the development of better methods for predicting the availability of all solar energy resources, over long time periods and by geographic location;

(2) the development of advanced meteorological, oceanographic, and other instruments, methodology, and procedures necessary to measure the quality and quantity of all solar resources on periodic basis;

(3) the development of activities, arrangements, and procedures for the collection, evaluation, and dissemination of information and data relating to solar energy resource assessment.

(b) The Chairman, acting through the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and other appropriate agencies, shall—

(1) develop and carry out a general plan for inventorying all forms of solar energy resources associated with Federal lands and (where consistent with property rights) non-Federal lands;

(2) conduct regional surveys based upon such general plan, using innovative meteorological, oceanographic, and space-related techniques, in sufficient numbers to lead to a national inventory of solar energy resources in the United States;

(3) publish and make available maps, reports, and other documents developed from such surveys to encourage and facilitate the commercial development of solar energy resources; and

(4) make such recommendations for legislation as may appear to be necessary to establish policies for solar resources involving Federal lands and waters, consistent with known inventories of various resource types, with the state of technologies for solar energy development, and with evaluation of the environmental impacts of such development.

RESEARCH AND DEVELOPMENT

SEC. 6. (a) The Chairman shall initiate a research and development program for the purpose of resolving the major technical problems inhibiting commercial utilization of solar energy in the United States.

(b) In connection with or as a part of such program, the Chairman shall—

(1) conduct, encourage, and promote scientific research and studies to develop effective and economical processes and equipment for the purpose of utilizing solar energy in an acceptable manner for beneficial uses;

(2) carry out systems, economic, social, and environmental studies to provide a basis for research, development and demonstration planning and phasing; and

(3) perform or cause to be performed technology assessments relevant to the utilization of solar energy.

(c) The specific solar energy technologies to be addressed or dealt with in the program shall include—

(1) direct solar heat as a source for industrial processes, including the utilization of low-level heat for process and other industrial purposes;

(2) thermal energy conversion, and other methods, for the generation of electricity and the production of chemical fuels;

(3) the conversion of cellulose and other organic materials (including wastes) to useful energy or fuels;

(4) photovoltaic and other direct conversion processes;

(5) sea thermal gradient conversion;

(6) windpower conversion;

(7) solar heating and cooling of housing and of commercial and public buildings; and

(8) energy storage.

DEMONSTRATION

SEC. 7. (a) The Chairman is authorized to initiate a program to design and construct, in specific solar energy technologies (including, but not limited to, those listed in section (6)(c)), facilities or powerplants of sufficient size to demonstrate the technical and economic feasibility of utilizing the various forms of solar energy. The specific goals of such programs shall include—

(1) production of electricity from a number of powerplants, on the order of one to ten megawatts each;

(2) production of synthetic fuels in commercial quantities;

(3) large-scale utilization of solar energy in the form of direct heat;

(4) utilization of thermal and all other byproducts of the solar facilities;

(5) design and development of hybrid systems involving the concomitant utilization of solar and other energy sources; and

(6) the continuous operation of such plants and facilities for a period of time.

(b) For each of the technologies for which a successful and appropriate development program is completed, the Chairman shall make a determination to proceed to demonstration based on criteria including, but not necessarily limited to, the following:

(1) the technological feasibility of the project;

(2) the costs and benefits of the project, as determined by an economic assessment;

(3) the immediate and the potential uses of the solar energy utilized in the project;

(4) long-term national need for the technology;

(5) environmental impact;

(6) potential for technology transfer to other applications; and

(7) the nature and extent of Federal participation, if any, in the project.

(c) In carrying out his responsibilities under this section, the Chairman, acting through the appropriate Federal agencies, may provide for the establishment of one or more demonstration projects utilizing each form of solar energy, which shall include, as appropriate the specific research, development, pilot plant construction and operation, demonstration plant construction and operation, and other facilities and activities which may be necessary to show commercial viability of the specific solar technology.

(d) The Chairman, acting through the appropriate Federal agencies, is authorized to investigate and enter into agreements for the cooperative development of facilities to demonstrate solar technologies. The responsible Federal agency may consider—

(1) cooperative agreements with non-Federal entities for construction of facilities and equipment to demonstrate solar energy technologies; and

(2) cooperative agreements with other Federal agencies for the construction of facilities and equipment and operation of facilities to produce energy for direct Federal utilization.

(e) The Chairman, acting through appropriate Federal agencies is authorized to construct and operate demonstration projects without entering into cooperative agreements with respect to such projects, if the Chairman finds that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or any other significant factor of the specific demonstration project offers opportunities to make important contributions to the general knowledge of solar resources, the techniques of its development, or public confidence in the technology; and

(2) there is no opportunity for cooperative agreements with any non-Federal entity willing and able to cooperate in the demonstration project under subsection (d)(1), and there is no opportunity for cooperative agreements with other Federal agencies under subsection (d)(2).

(f) If the estimate of the Federal investment with respect to construction and operation costs of any demonstration project proposed to be established under this section exceeds $20,000,000, no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

(g)(1) At the conclusion of any demonstration project established under this section, or as soon thereafter as may be practicable, the responsible Federal agencies shall, by sale, lease, or otherwise, dispose of all Federal property interests which they have acquired pursuant to this section in accordance with existing law and the terms of the cooperative agreements involved.

(2) The agency involved shall, under appropriate agreements or other arrangements, provide for the disposition of electricity, synthetic fuels, and other byproducts of the project administered by such agency.

SOLAR ENERGY TECHNOLOGY UTILIZATION

SEC. 8. (a)(1) In carrying out his functions under this Act the Chairman, utilizing the capabilities of the National Science Foundation, the National Aeronautics and Space Administration, the Department of Commerce, the Atomic Energy Commission, and other appropriate Federal agencies to the maximum extent possible, shall establish and operate a Solar Energy Information Data Bank (hereinafter in this subsection referred to as the "bank") for the purpose of collecting, reviewing, processing, and disseminating information and data in all of the solar energy technologies referred to in section 7 (c) in a timely and accurate manner in support of the objectives of this Act.

(2) Information and data compiled in the bank shall include—

(A) technical information (including reports, journal articles, dissertations, monographs, and project descriptions) on solar energy research, development, and applications;

(B) similar technical information on the design, construction, and maintenance of equipment utilizing solar energy;

(C) general information on solar energy applications to be disseminated for popular consumption;

(D) physical and chemical properties of materials required for solar energy activities and equipment; and

(E) engineering performance data on equipment and devices utilizing solar energy.

(3) In accordance with regulations prescribed under section 12, the Chairman shall provide retrieval and dissemination services with respect to the information described under paragraph (2) for—

(A) Federal, State, and local government organizations that are active in the area of energy resources (and their contractors);

(B) universities and colleges in their related research and consulting activities; and

(C) the private sector upon request in appropriate cases.

(4) In carrying out his functions under this subsection, the Chairman shall utilize, when feasible, the existing data base of scientific and technical information in Federal agencies, adding to such data base any information described in paragraph (2) which does not already reside in such base. He shall coordinate or merge this data bank with other Federal energy information data banks

as necessary to assure efficient and effective operation.

(b) In carrying out his functions under this Act the Chairman shall perform or cause to be performed studies and research on incentives to promote broader utilization and consumer acceptance of solar energy technologies.

(c) The Chairman shall enter into such arrangements and take such other steps as may be necessary or appropriate to provide for the effective coordination of solar energy technology utilization with all other technology utilization programs within the Federal Government.

SCIENTIFIC AND TECHNICAL EDUCATION

SEC. 9. The Chairman, acting through the National Science Foundation, is authorized and directed to support programs of education in the sciences and engineering to provide the necessary trained personnel to perform the solar energy research, development, and demonstration activities required under this Act. Such support may include fellowships, traineeships, technical training programs, technologist training programs, and summer institute programs.

SOLAR ENERGY RESEARCH INSTITUTE

SEC. 10. (a) There is established a Solar Energy Research Institute, which shall perform such research, development, and related functions as the Chairman may determine to be necessary or appropriate in connection with the Project's activities under this Act or to be otherwise in furtherance of the purpose and objectives of this Act.

(b) The Institute may be located (as designated by the Chairman) at any new or existing Federal laboratory (including a non-Federal laboratory performing functions under a contract entered into with the Project or with any of the agencies represented in the Project as well as a laboratory whose personnel are Federal employees).

INTERNATIONAL COOPERATION

SEC. 11. (a) The Chairman, in furtherance of the objectives of this Act, is authorized to cooperate and participate jointly with other nations, especially those with agreements for scientific cooperation with the United States, in the following activities:

(1) interinstitutional, bilateral, or multilateral research projects in the field of solar energy; and

(2) agreements and programs which will facilitate the exchange of information and data relating to solar energy resource assessment and solar energy technologies.

(b) The National Science Foundation is authorized to encourage, to the maximum extent practicable and consistent with the other objectives of this Act, international participation and cooperation in the development and maintenance of programs of education to carry out the policy set forth in section 9.

REGULATIONS

SEC. 12. The Chairman in consultation with the heads of the Federal agencies having functions under this Act and with other appropriate officers and agencies, shall prescribe such regulations as may be necessary or appropriate to carry out this act promptly and efficiently. Each such officer or agency, in consultation with the Chairman, may prescribe such regulations as may be necessary or appropriate to carry out his or its particular functions under this Act promptly and efficiently.

ANNUAL REPORTS

SEC. 13. The Chairman shall report, on an annual basis, to the President and the Congress all actions taken under the provisions of this Act, all action planned for the ensuing year, and, to the extent practical, a projection of activities and funding requirements, for the ensuing five years. The Chairman also shall recommend, as he deems appropriate, any legislation or reorganization which might further the purposes of this Act.

INFORMATION TO CONGRESS

SEC. 14. Notwithstanding any other provision of law, the Chairman (or the head of any agency which assumes the functions of the Project pursuant to section 16) shall keep the appropriate committees of the House of Representatives and the Senate fully and currently informed with respect to all activities under this Act.

COMPREHENSIVE PROGRAM DEFINITION

SEC. 15. (a) The Chairman is authorized and directed to prepare a comprehensive program definition of an integrated effort and commitment for effectively developing solar energy resources. The Chairman, in preparing such program definition, shall utilize and consult with the appropriate Federal agencies, State and local government agencies, and private organizations.

(b) The Chairman shall transmit such comprehensive program definition to the President and to each House of the Congress. An interim report shall be transmitted not later than March 1, 1975. The comprehensive program definition shall be transmitted as soon as possible thereafter, but in any case not later than June 30, 1975.

TRANSFER OF FUNCTIONS

SEC. 16. Within sixty days after the effective date of the law creating a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States (or within sixty days after the date of the enactment of this Act if the effective date of such law occurs prior to the date of the enactment of this Act), all of the authorities of the Project and all of the research and development functions (and other functions except those related to scientific and technical education) vested in Federal agencies under this Act along with related records, documents, personnel, obligations, and other items, to the extent necessary or appropriate, shall, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such organization or agency.

AUTHORIZATION OF APPRORIATIONS

SEC. 17. To carry out the provisions of this Act, there are authorized to be appropriated—

(1) for the fiscal year ending June 30, 1976, $75,000,000;

(2) for subsequent fiscal years, only such sums as the Congress hereafter may authorize by law;

(3) such amounts as may be authorized for the construction of demonstrations pursuant to section 7(f) of this Act; and

(4) to the National Science Foundation for the fiscal year ending June 30, 1975, not to exceed $2,000,000 to be made available for use in the preparation of the comprehensive program definition under section 15.

And the House agree to the same.

That the House recede from its amendment to the title of the Senate bill.

OLIN E. TEAGUE,
MIKE MCCORMACK,
DON FUQUA,
JAMES W. SYMINGTON,
CHARLES A. MOSHER,
BARRY M. GOLDWATER, Jr.,
JOHN W. WYDLER,
Managers on the Part of the House.

HENRY M. JACKSON,
BENNETT J. JOHNSTON, Jr.,
FLOYD K. HASKELL,
PAUL FANNIN,
JAMES MCCLURE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3234) to authorize a vigorous Federal program of research, development, and demonstration to assure the utilization of solar energy as a viable source for our national energy needs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

Senate bill

The Senate bill provided that this legislation may be cited as the "Solar Energy Research, Development, and Demonstration Act of 1974".

House amendment

The House amendment was the same as the Senate bill.

Conference substitute

The conference substitute is the same as the Senate bill.

FINDINGS AND POLICY

Senate bill

Section 2(a) of the Senate bill made the following findings: (1) dependence on nonrenewable energy resources cannot be continued indefinitely; (2) renewable energy resources, such as solar energy, should be developed; (3) research and development with respect to solar energy has been extremely limited; and (4) the Nation should undertake a 5-year, $1 billion research, development, and demonstration program with respect to energy alternatives.

Section 2(b) of the Senate bill provided that it is the policy of the Federal Government to (1) pursue a solar energy research and development program; and (2) develop and demonstrate methods for the commercial use of solar energy.

House amendment

Section 2 of the House amendment was essentially the same as section 2(a) of the Senate bill, except that the House amendment made the following additional findings: (1) society depends on an ample supply of energy; (2) the imbalance between the supply and demand for fuels and energy probably will persist; (3) solar energy technologies presently are at widely differing stages of development; (4) the United States balance of trade would be improved by the export of viable equipment utilizing solar energy; and (5) mass production and use of equipment utilizing solar energy would make the United States less dependent upon foreign energy sources.

Section 3 of the House amendment was essentially the same as section 2(b) of the Senate bill.

Conference substitute

The conference substitute is the same as the Senate bill, with the following changes:

1. The conference substitute incorporates the 5 findings of the House amendment which were not contained in the Senate bill.

2. The conference substitute changes the second finding made by the Senate bill in order to stress that development of renewable and nonpolluting energy resources should be expedited.

3. The conferees agree that the objective

of this legislation is to achieve, at the earliest possible date, the commercial viability of various applications of solar energy technology. They also agree that suggesting a specific time period, within which this goal could be reached for any particular technology or group of technologies, is premature. The conference substitute, therefore, omits reference to a 5-year period in the fourth finding made by the Senate bill.

Consistent with this, the conferees agree to alter the Senate language which estimated a need for a Federal investment of $1 billion over 5 years to carry out the provisions of this legislation. They agree that, while an outlay of this magnitude or more may well be required, it is too early to define the necessary level of expenditures. They therefore agree to qualify the $1 billion figure by stating that the financial needs of the program may "...reach or exceed..." that amount. The conferees agree that these changes from the Senate bill are not meant to contravene the intent of proceeding expeditiously toward achieving the purpose of the legislation.

DEFINITIONS

Senate bill

Section 3 of the Senate bill contained the following definitions:

1. The term "utilization of solar energy" was defined to mean various advanced technology applications of solar energy.

2. The term "Project" was defined to mean the Solar Energy Coordination and Management Project.

3. The term "Chairman" was defined to mean the Chairman of the Project.

House amendment

Section 4 of the House amendment contained the following definitions:

1. The term "solar energy" was defined to mean energy which has recently originated in the Sun, including direct and indirect solar radiation and various intermediate solar energy forms.

2. The term "byproduct" was defined to include, with respect to solar energy technologies and processes, any solar energy products other than those associated with or constituting the primary product of such technologies or processes.

3. The term "insolation" was defined to mean the rate at which solar energy is received at the surface of the earth. Such term covered both direct and scattered solar radiation.

4. The term "Project" was defined in the same manner as in the Senate bill.

Conference substitute

The conference substitute is the same as the House amendment, except that the conference substitute incorporates the definition of "Chairman" contained in the Senate bill.

COORDINATION AND MANAGEMENT PROJECT

Senate bill

Section 4(a) of the Senate bill established the Solar Energy Coordination and Management Project (hereinafter in this statement referred to as the "Project").

Section 4(b) provided that the Project would be composed of 6 members as follows: (1) an Assistant Director of the National Science Foundation (hereinafter in this statement referred to as "NSF"); (2) an Assistant Secretary of Housing and Urban Development (hereinafter in this statement referred to as "HUD"); (3) a member of the Federal Power Commission (hereinafter in this statement referred to as "FPC"); (4) an Associate Administrator of the National Aeronautics and Space Administration (hereinafter in this statement referred to as "NASA"); (5) the General Manager of the Atomic Energy Commission (hereinafter in this statement referred to as "AEC"); and (6) a member designated by the President.

Section 4(b) also provided that the President shall designate one member of the Project to serve as Chairman of the Project.

Section 4(c) provided that the Project shall be responsible for the management and coordination of a national solar energy research, development, and demonstration program.

House amendment

Section 5(a) of the House amendment was the same as section 4(a) of the Senate bill. Section 5(b) of the House amendment was essentially the same as section 4(b) of the Senate bill.

Section 5(c) of the House amendment was essentially the same as section 4(c) of the Senate bill, except that the House amendment provided that the solar energy research, development, and demonstration program shall include (1) determination and evaluation of the resource base; (2) research and development on solar energy technologies; and (3) demonstration of appropriate solar energy technologies.

Section 5(d) of the House amendment provided that the Project shall cooperate with NSF, NASA, AEC, HUD, and FPC, in carrying out its responsibilities under section 5. Such subsection also provided for the responsibilities of each such agency and authorized the head of each such agency to detail personnel to the Project.

Section 5(e) of the House amendment provided that the Project shall have overall authority with respect to programs and projects initiated under this legislation. The agencies involved, however, shall be responsible for the operation and administration of each such program or project.

Section 5(f) of the House amendment authorized NASA to undertake and carry out programs assigned to it by the Project.

Conference substitute

The conference substitute is the same as the House amendment, with the following changes:

1. The conference substitute provides that if the member of the Project designated by the President is an officer or employee of the Federal Government, he shall receive no additional salary. If he is not an officer or employee of the Federal Government, he shall receive the daily equivalent of the annual rate of pay for level IV of the Executive Schedule for each day during which he serves as a member.

2. The conference substitute specifies that the responsibilities of HUD shall be carried out pursuant to the Solar Heating and Cooling Demonstration Act of 1974 (P.L. 93-409; 88 Stat. 1069).

3. The conference substitute provides that the responsibilities of NSF are altered with regard to overall funding. Presently, NSF is the lead agency for solar energy R&D. It is consistent with the intent of the conferees for appropriations to the Project to be made through NSF in fiscal year 1976 and beyond. The deletion of "basic and applied" in describing NSF research responsibilities is consistent with the conferees' desire to not change the character of NSF programs.

4. Section 5(c)(1) of the House amendment, as incorporated by the conference substitute, refers to a general survey of the solar resource base. It is anticipated that detailed assessments will be made in specific geographical areas, in addition to the general surveys, in conjunction with demonstrations.

The conferees intend that the Project should, whenever applicable, cooperate with and make use of the expertise of other Federal agencies not included as members of the Project, such as the Federal Energy Administration and the National Oceanic and Atmospheric Administration.

RESOURCE DETERMINATION AND ASSESSMENT

Senate bill

No provision.

House amendment

Section 6(a) of the House amendment required the Chairman to initiate a solar energy resource determination and assessment program. This program, which shall emphasize the identification of promising areas for commercial exploitation and development, shall have the following goals: (1) developing methods to predict the availability of solar energy resources; (2) developing instrumentation, methodology and procedures necessary to measure solar energy resources; (3) developing proposed agreements and programs with other countries with respect to solar energy resources assessment; and (4) developing arrangements for the flow of information and data with respect to solar energy resources assessment.

Section 6(b) of the House amendment required the Chairman, acting through NASA and the National Oceanic and Atmospheric Administration, to (1) develop a plan for inventorying solar energy resources associated with Federal lands and, to the extent consistent with property rights, with non-Federal lands; (2) conduct regional surveys leading to a national inventory of solar energy resources; (3) make available maps and reports developed from such surveys to encourage commercial development of solar energy resources; and (4) make recommendations for legislation with respect to Federal leasing policies for solar energy resources.

Conference substitute

The conference substitute is the same as the House amendment, except that the conference substitute omits the provision relating to developing proposed agreements and programs with other countries with respect to solar energy resources assessment, since provisions relating to international cooperation are contained in a new section added by the conference substitute.

The conference substitute also authorizes NSF to encourage international participation and cooperation in developing and maintaining programs of technical and scientific education.

RESEARCH AND DEVELOPMENT

Senate bill

Section 5 of the Senate bill provided that the Chairman shall initiate a research and development program to resolve technical problems with respect to commercial utilization of solar energy. Section 5 also provided that such program shall include (1) scientific research and studies to develop solar energy processes and equipment; (2) systems, economic, social, and environmental studies with respect to use of solar energy; (3) technical assessments with respect to use of solar energy; and (4) cooperation with other nations in interinstitutional, bilateral, or multilateral research projects with respect to solar energy.

Section 5 also provided that the program shall deal with specific solar energy technologies, including (1) direct solar heat as a source for industrial processes; (2) thermal energy conversion; (3) conversion of cellulose and other organic materials to useful energy or fuels; (4) photovoltaic and other direct conversion processes; (5) sea thermal power conversion; and (6) windpower conversion.

House amendment

Section 7(a) of the House amendment required the Chairman to initiate a research and development program to facilitate commercial utilization of solar energy resources. Section 7(b) provided for the conduct of (1) basic research in all aspects of solar energy resources; (2) various environmental and other studies to provide a basis for research and development planning and phasing; (3) technology assessments; and (4) development of means to use the solar energy resource base, with specific attention directed to (A) improving the capability to predict environmental impacts of solar energy resources development; (B) identifying social, legal, and economic problems associated with solar energy resources development; and (C)

development of agreements with other countries to exchange information and support cooperative research.

Section 7(c) was essentially the same as those provisions of section 5 of the Senate bill which required the program to deal with specific solar energy technologies, except that the House amendment also included (1) solar heating and cooling of housing and of commercial and public buildings; and (2) energy storage.

Conference substitute

The conference substitute is the same as the House amendment, except that the conference substitute adopts the approach of the Senate bill with respect to the requirement of scientific research and studies to develop solar energy processes and equipment.

DEMONSTRATION

Senate bill

Section 6 of the Senate bill required the Chairman to (1) solicit proposals for demonstration plants with respect to each technology described in section 5(c) of the Senate bill; such proposals shall include a description of (A) the proposed plant or facility; (B) an economic assessment of costs and benefits of the project; (C) an assessment of uses of solar energy utilized in the project; and (D) the nature and extent of any anticipated Federal participation; (2) select proposals for demonstration, based upon (A) economic costs and feasibility; (B) national interest considerations with respect to the technology; (C) environmental impact; (D) potential for technology transfer to other applications; and (E) likelihood of success for commercial application; and (3) conduct feasibility studies for a full-scale demonstration program for each of the specific selected proposals.

Section 8(a) of the Senate bill provided that the Chairman, in cooperation with the AEC, may initiate small-scale demonstration programs involving a total Federal investment of not more than $20 million. Section 8(b) provided that the AEC shall be directly responsible for administering construction contracts and agreements with non-Federal participants in the small-scale demonstrations.

Section 8(c) authorized the AEC to enter into agreements with non-Federal utilities, industries, and governmental entities for the construction and operation of small-scale demonstration programs.

Section 8(d) provided that no agreement shall be entered into under section 8 unless the Chairman determines that (1) the nature of the resource, location, and facilities involved, offers an opportunity to contribute to the development of solar energy; (2) the potential non-Federal participants are willing and capable to make contributions toward the capital cost of the program; and (3) the development of benefits under the program is unlikely to be accomplished without Federal assistance.

Section 9(a) of the Senate bill provided that, after establishment of the Energy Research and Development Administration (hereinafter in this statement referred to as "ERDA"), the Administrator of ERDA shall administer contracts for the construction and operation of any demonstration programs authorized by the Congress. Section 9(b) provided that if, on the date of submission of the report required by section 7(b) of the Senate bill, ERDA has not been established, then the President shall designate an appropriate agency to carry out the functions of section 9(a).

House amendment

Section 8(a) of the House amendment authorized the Chairman to initiate a program to design and operate facilities or powerplants to demonstrate the feasibility of utilizing solar energy. Section 8(a) also established various goals of such program.

Section 8(b) authorized the Chairman to establish one or more demonstration projects utilizing each form of solar energy. The Chairman was given authority to obtain, through appropriate Federal agencies, plants and other real property used in any demonstration project.

Any agency designated by the Chairman to conduct a demonstration project shall provide for the disposal of electric energy and other byproducts of such project. Such disposition, to the maximum extent possible, shall be achieved through the sale of such electric energy or other byproducts.

Section 8(c) authorized the Chairman, acting through appropriate Federal agencies, to enter into agreements with non-Federal entities for the development of solar demonstration facilities.

Section 8(d) required the responsible Federal agencies, at the conclusion of the program established under section 8, to dispose of Federal property interests which have been acquired pursuant to such program. Such disposition shall be on such terms and conditions as the agency determines to be reasonable, or in accordance with the terms of any cooperative agreement which is involved.

Section 8(e) provided that preference shall be given to solar energy technologies with the best opportunity for commercial success and environmental acceptability in selecting technologies for demonstration.

Conference substitute

The conference substitute authorizes the Chairman to initiate a program to construct demonstration facilities or powerplants for the development and use of solar energy. The goals of such program include (1) production of electricity from a number of powerplants, ranging from 1 to 10 megawatts each; (2) production of synthetic fuels in commercial quantities; (3) use of solar energy in the form of direct heat; and (4) use of thermal and all other byproducts; (5) design and development of hybrid systems; and (6) continuous operation of the facilities or powerplants for a period of time.

The conference substitute provides that, with respect to each solar energy technology for which a development program is completed, the Chairman shall determine whether to proceed to demonstration. His determination shall be based, in part, upon consideration of the following criteria: (1) technological feasibility of the project; (2) costs and benefits of the project; (3) uses of the solar energy to be utilized in the project; (4) long-term national need for the technology involved in the project; (5) environmental impact; (6) potential of technology transfer to other applications; and (7) the nature and extent of any Federal participation in the project.

The conference substitute also provides that the Chairman, acting through the appropriate Federal agencies, may establish one or more demonstration projects utilizing each form of solar energy. The conference substitute authorizes the Chairman, acting through the appropriate Federal agencies, to investigate and enter into agreements for the cooperative development of facilities to demonstrate solar energy technologies. The responsible Federal agencies may consider (1) cooperative agreements with non-Federal entities; and (2) cooperative agreements with other Federal agencies for production of energy for direct Federal utilization.

The conference substitute also authorizes the Chairman, acting through the appropriate Federal agencies, to operate demonstration projects without entering into any cooperative agreements with respect to such projects, if the Chairman finds that (1) the nature of the resource, location, and facilities involved, offers an opportunity to contribute to the development of solar energy; and (2) there is no opportunity for agreements with non-Federal entities or with other Federal agencies.

The conference substitute provides that if the estimate of Federal investment in a demonstration project exceeds $20 million, then no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

The conference substitute also provides that, at the conclusion of a demonstration project, the responsible Federal agencies shall dispose of all Federal property interests in the project in a manner consistent with existing law and the terms of the cooperative agreements involved. The conference substitute also provides that the Federal agency involved shall dispose of electricity, synthetic fuels, and other byproducts of the project administered by such agency.

SOLAR ENERGY TECHNOLOGY UTILIZATION

Senate bill

Section 10(a) of the Senate bill authorized and directed the Chairman to collect and disseminate information and data with respect to applications of solar energy developed under this legislation, including (1) technical information resulting from research and demonstration programs specified under sections 5, 6, and 8 of the Senate bill; and (2) general information on solar energy applications.

Section 10(b) provided that the Chairman shall encourage development of agreements and programs with other countries to exchange information relating to solar energy resource assessment.

Section 11 of the Senate bill provided that the Chairman shall take necessary steps to coordinate solar energy technology utilization with all other technology utilization programs of the Federal Government.

House amendment

Section 11(a) of the House amendment required the Chairman to establish a Solar Energy Information Data Bank to collect and disseminate information and data with respect to solar energy technologies. The Chairman was required to provide retrieval and dissemination services for Federal, State, and local governmental organizations, universities and colleges, and the private sector. The Chairman was required to utilize the existing scientific and technical information data base of Federal agencies, and to coordinate or merge the data bank established under section 11(a) with other Federal energy information data banks as necessary to assure efficient operation.

Section 11(b) required the Chairman to establish a solar energy incentives task force. The functions of such task force are as follows: (1) report to the President and to the Congress with respect to programs to accelerate commercial application and consumer utilization of solar energy technology; (2) conduct a program of research and investigation concerning problems in developing and utilizing solar energy; and (3) carry on a program of research and investigation concerning social, legal, and common barriers to public acceptance and use of solar energy.

Section 11(c) required the Chairman to make arrangements to coordinate solar energy technology utilization with other Federal technology utilization programs.

Conference substitute

The conference substitute is the same as the House amendment, with the following changes:

1. The conference substitute specifically requires the data bank to compile information and data on solar energy applications which would be appropriate for popular consumption.

2. The conference substitute omits the provision of the House amendment which required establishment of a solar energy incentives task force. In place of such provision, the conference substitute includes a

provision which requires the Chairman to perform studies and research on incentives to promote broader use and consumer acceptance of solar energy technologies.

SCIENTIFIC AND TECHNICAL EDUCATION

Senate bill

Section 12 of the Senate bill authorized the Chairman, acting through NSF, to support education programs to provide the necessary trained personnel to perform solar energy research, development, and demonstration activities required under this legislation. Section 12 provided that such support may include fellowships, traineeships, technical training programs, technologist training programs, and summer institute programs.

House amendment

Section 9 of the House amendment provided that it is the policy of the Congress to encourage programs to provide trained personnel to carry out solar energy research, development, and demonstration activities. NSF was authorized to support educational programs designed to effectuate such policy. NSF was required to coordinate its activities with the Project or any permanent Federal organization or agency having jurisdiction over Federal research and development functions. NSF also was authorized to encourage, to the maximum extent possible and consistent with other objectives of this legislation, international participation and cooperation with respect to educational programs.

Conference substitute

The conference substitute is the same as the Senate bill, except that the conference substitute authorizes and directs the Chairman to support such education programs, instead of allowing such support to be a matter of discretion.

SOLAR ENERGY RESEARCH INSTITUTE

Senate bill

Section 14 of the Senate bill established a Solar Energy Research Institute, which shall perform functions assigned to it by the Chairman. The Chairman may locate such Institute at any Federal laboratory or any non-Federal laboratory if such laboratory is under contract with the Project, or any Federal agency represented in the Project, if the personnel of such laboratory are Federal employees.

House amendment

Section 10 of the House amendment was the same as section 14 of the Senate bill.

Conference substitute

The conference substitute is the same as the Senate bill.

INTERNATIONAL COOPERATION

Senate bill

Section 5 of the Senate bill required the Chairman to seek cooperation with other nations regarding various solar energy research projects. Section 10(b) of the Senate bill required the Chairman to encourage agreements with other countries regarding exchange of information relating to solar energy resource assessment.

House amendment

Sections 6, 7, and 9 of the House amendment contained provisions relating to international cooperation which were similar to the provisions of the Senate bill.

Conference substitute

The conference substitute combined the provisions of the Senate and House versions into one single section specifically addressed to international cooperation. The conferees agree that the development of solar energy will be enhanced by cooperation with other nations in the research projects established by this legislation and in the mutual exchange of information and data.

REGULATIONS

Senate bill

No provision.

House amendment

Section 13 of the House amendment required the Chairman, together with Federal agencies with functions under this legislation and other appropriate officers and agencies, to prescribe such regulations as may be necessary or appropriate to carry out this legislation.

Conference substitute

The conference substitute is the same as the House amendment.

ANNUAL REPORTS

Senate bill

Section 13 of the Senate bill required the Chairman to report on an annual basis to the President and to the Congress with respect to (1) actions taken under this legislation; (2) actions planned for the ensuing year; and (3) to the extent practical, activities and funding requirements for the ensuing 5 years. The Chairman was required to recommend, as he deems appropriate, any legislation or reorganization which may further the purposes of this legislation.

House amendment

Section 12 of the House amendment required each Federal agency with functions under this legislation to report to the President and to the Congress with respect to the activities of such agency. The Chairman was required to transmit an annual special report to the President and to the Congress summarizing all activities under this legislation.

Conference substitute

The conference substitute is the same as the Senate bill.

INFORMATION TO CONGRESS

Senate bill

No provision.

House amendment

Section 15 of the House amendment required the Chairman, or any organization or agency which assumes the functions of the Project under section 14 of the House amendment, to inform the appropriate committees of the Congress with respect to activities under this legislation.

Conference substitute

The conference substitute is the same as the House amendment.

COMPREHENSIVE PROGRAM DEFINITION

Senate bill

Section 7 of the Senate bill required the Chairman to report to the President and to the Congress, no later than one year after the date of the enactment of this legislation, on the results of feasibility studies conducted under section 6(c) of the Senate bill. Such reports were required to contain, as appropriate, requests for authorization for the construction of demonstration plants to be pursued to full-scale application.

House amendment

Section 16(a) of the House amendment required the Chairman, in consultation with the Federal Energy Administration, NSF, HUD, FPC, NASA, AEC, other appropriate Federal agencies, State and local government agencies, and private organizations, to prepare a comprehensive program definition for the development of solar energy resources.

Section 16(b) required the Chairman to transmit interim reports to the President and to the Congress with respect to such program definition no later than December 31, 1974, and January 31, 1975. The completed program definition shall be transmitted no later than June 30, 1975.

Conference substitute

The conference substitute is the same as the House amendment, except that the conference substitute requires only one interim report, which shall be transmitted no later than March 1, 1975.

The conferees agree that the final report should be transmitted no later than June 30, 1975. They agree that the urgent need to develop an integrated solar energy research, development, and demonstration program warrants accelerating the completion of this program definition.

The conferees intend that the Project member agencies as well as the Federal Energy Administration, the National Oceanic and Atmospheric Administration, and any other appropriate agencies, should cooperate in the comprehensive program definition.

TRANSFER OF FUNCTIONS

Senate bill

Section 4(d) of the Senate bill provided that, within 60 days after the date of the enactment of legislation establishing ERDA, the functions and authorities of the Project shall be transferred to ERDA, vested in the Administrator of ERDA, and implemented through the Assistant Administrator for Solar, Geothermal, and Advanced Energy Systems.

House amendment

Section 14 of the House amendment provided that, upon the establishment of a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States, the authorities of the Project and the research, development, and other functions (other than those related to scientific and technical education) vested in Federal agencies under this legislation, shall be transferred to and vested in such permanent Federal organization or agency.

Conference substitute

The conference substitute is the same as the House amendment.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

Section 15 of the Senate bill authorized to be appropriated (1) $100 million for fiscal year 1976; (2) such amounts as may be authorized by annual authorization measures in subsequent years; and (3) such amounts as may be authorized for construction of full-scale demonstrations under section 9(a) of the Senate bill.

House amendment

Section 17(a) of the House amendment authorized the appropriation of not more than $2 million to NSF for fiscal year 1975 for use in preparing the program definition under section 16 of the House amendment.

Section 17(b) authorized the appropriation of such sums as the Congress may hereafter authorize by law for fiscal years beginning after June 30, 1975.

Conference substitute

The conference substitute is the same as the Senate bill, with the following changes:

1. The conference substitute reduces the authorization of appropriations for fiscal year 1976 to $75 million.

2. The conference substitute includes the provision of the House amendment relating to the $2 million authorization of appropriations to NSF for fiscal year 1975 for use in preparing the program definition.

The conferees adopted the $75 million authorization of appropriations for fiscal year 1976 so as to be more in line with the projected budget figure under consideration by the Administration. The conferees agree that reducing the authorization of appropriations for fiscal year 1976 from the Senate figure of $100 million to $75 million is not meant to contravene the intent to supply adequate Federal financial resources for carrying out the vigorous program established by this legislation. It is the intent of the conferees that, if additional funds are needed to carry out the provisions of this legislation during fiscal

year 1976, authorization of additional funds through the appropriate committees of the Congress would be warranted and in order. Results of the program definition should be a major consideration in determining the need for further funding.

It is the understanding of the conferees that authorizations for appropriations made by this legislation are separate from any authorizations made by the Solar Heating and Cooling Demonstration Act of 1974 (P.L. 93-490; 88 Stat. 1069).

OLIN E. TEAGUE,
MIKE MCCORMACK,
DON FUQUA,
J. W. SYMINGTON,
CHARLES A. MOSHER,
BARRY M. GOLDWATER, Jr.,
JOHN W. WYDLER,
Managers on the Part of the House.

HENRY M. JACKSON,
J. BENNETT JOHNSTON, Jr.,
FLOYD K. HASKELL,
PAUL FANNIN,
JAMES MCCLURE,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 11221

Mr. PATMAN (pursuant to an order of the House on October 3, 1974) filed the following conference report and statement on the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000:

CONFERENCE REPORT (H. REPT. No. 93-1429)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—AMENDMENTS TO AND EXTENSIONS OF PROVISIONS OF LAW RELATING TO FEDERAL REGULATION OF DEPOSITORY INSTITUTIONS

FULL DEPOSIT INSURANCE FOR PUBLIC UNITS

SECTION 101. (a) The Federal Deposit Insurance Act is amended—

(1) in subsection (m) of section 3 (12 U.S.C. 1813(m)), by inserting immediately after "depositor" in the first sentence the following: "(other than a depositor referred to in the third sentence of this subsection)";

(2) in subsection (1) of section 7 (12 U.S.C. 1817(1)), by striking out "Trust" and inserting in lieu thereof the following: "Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 11(a) of this Act, trust"; and

(3) in subsection (a) of section 11 (12 US.C. 1821(a)), by inserting "(1)" immediately after "(a)", by striking out "The" in the last sentence and inserting in lieu thereof the following: "Except as provided in paragraph (2), the", and by inserting at the end of such subsection the following:

"(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;

his deposit shall be insured in an amount not to exceed $100,000 per account.

"(b) The Corporation may limit the aggregate amount of funds that may be invested or deposited in time and savings deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets: *Provided, however,* such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required."

(b) Title IV of the National Housing Act is amended—

(1) in section 401(b) (12 U.S.C. 1724(b)), by striking out "Funds" in the third sentence and inserting in lieu thereof the following: "Except in the case of an insured member referred to in the preceding sentence, funds";

(2) in section 405(a) (12 U.S.C. 1728(a)), by inserting after "except that no member or investor" the following: "(other than a member or investor referred to in subsection (d))"; and

(3) by adding at the end of section 405 (12 U.S.C. 1728) the following new subsection:

"(d)(1) Notwithstanding any limitation in this subchapter or in any other provision of law relating to the amount of deposit insurance available for any one account, in the case of an insured member who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured institution;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured institution in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, or of the Virgin Islands, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in the Commonwealth of Puerto Rico or the Virgin Islands, respectively;

the account of such insured member shall be insured in an amount not to exceed $100,000 per account.

"(2) The Corporation may limit the aggregate amount of funds that may be invested in any insured institution by any insured member referred to in paragraph (1) of this subsection on the basis of the size of any such institution in terms of its assets."

(c) Subsection (c) of section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by—

(1) inserting "(1)" after "(c)",

(2) striking out "For the purposes of this subsection," and inserting in lieu thereof the following: "Subject to the provisions of paragraph (2), for the purposes of this subsection,", and

(3) adding at the end thereof the following:

"(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, in the case of a depositor or member who is—

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title;

"(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or public funds and lawfully investing the same in a credit union insured in accordance with this title in such State;

"(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the District of Columbia; or

"(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the Commonwealth of Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively;

his account shall be insured in an amount not to exceed $100,000 per account.

"(B) The Administrator may limit the aggregate amount of funds that may be invested or deposited in any credit union insured in accordance with this title by any depositor or member referred to in subparagraph (A) on the basis of the size of any such credit union in terms of its assets."

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits;".

(e) Section 5 (b)(2) of the Home Owners' Loan Act of 1933 is amended by inserting immediately after "security," "may be surety as defined by the Board".

(f)(1) The Advisory Commission on Intergovernmental Relations (hereinafter referred to as the "Commission") shall conduct a study of the impact of this section on funds available for housing and on State and local bond markets.

(2) The Commission shall make a report to the Congress of the results of its study not later than two years after the date of enactment of this Act.

(3) There is authorized to be appropriated to the Commission such sums as may be necessary to carry out this subsection.

(g) This section and the amendments made by it shall take effect on the thirtieth day beginning after the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: FEDERAL DEPOSIT INSURANCE CORPORATION

SEC. 102 (a) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$40,000":

(1) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(2) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(3) The last sentence of section 11(a) (12 U.S.C. 1821(a)).

(4) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(b) The amendments made by this section are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

(c) The amendments made by this section shall take effect on the thirtieth day beginning after the date of the enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 103. (a) The following provisions of title IV of the National Housing Act are amended by striking out "$20,000" each place it appears therein and inserting in lieu thereof "$40,000":

(1) Section 401(b) (12 U.S.C. 1724(b)).

(2) Section 405(a) (12 U.S.C. 1728(a)).

(b) The amendments made by this section are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act, where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.

(c) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

INCREASED CEILING ON DEPOSIT INSURANCE: INSURED CREDIT UNIONS

SEC. 104. (a) The first sentence of section 207(c) of title II of the Federal Credit Union Act (12 U.S.C. 1787(c) is amended by striking out "$20,000" and inserting in lieu thereof "$40,000".

(b) The amendment made by this section is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of title II of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(c) The amendment made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act.

CONVERSION OF SAVINGS AND LOAN ASSOCIATIONS

SEC. 105. (a) Section 403(b) of the National Housing Act, as amended (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following new sentence: "As used in this subsection the term 'reserves' shall, to such extent as the Corporation may provide, include capital stock and other items, as defined by the Corporation.".

(b) Section 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 781(i)), is amended to read as follows:

"(i) In respect of any securities issued by banks the deposits of which are insured in accordance with the Federal Deposit Insurance Act or institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, the powers, functions, and duties vested in the Commission to administer and enforce sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16, (1) with respect to national banks and banks operating under the Code of Law for the District of Columbia are vested in the Comptroller of the Currency, (2) with respect to all other member banks of the Federal Reserve System are vested in the Board of Governors of the Federal Reserve System, (3) with respect to all other insured banks are vested in the Federal Deposit Insurance Corporation, and (4) with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation are vested in the Federal Home Loan Bank Board. The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in them as provided in this subsection. In carrying out their responsibilities under this subsection, the agencies named in the first sentence of this subsection shall issue substantially similar regulations to regulations and rules issued by the Commission under sections 12, 13, 14(a), 14(c), 14(d), 14(f) and 16, unless they find that implementation of substantially similar regulations with respect to insured banks and insured institutions are not necessary or appropriate in the public interest or for protection of investors, and publish such findings, and the detailed reasons therefor, in the Federal Register. Such regulations of the above-named agencies, or the reasons for failure to publish such substantially similar regulations to those of the Commission, shall be published in the Federal Register within 120 days of the date of enactment of this subsection, and, thereafter, within 60 days of any changes made by the Commission in its relevant regulations and rules."

(c) Paragraph (5) of subsection (1) of section 407 of the National Housing Act, as amended (12 U.S.C. 1730(1)(5)), is amended by inserting after "disclosures" a comma and the following: "including proxy statements and the solicitation of proxies thereby,".

(d) Subsection (j) of section 402 of the National Housing Act, as amended (12 U.S.C. 1725(j)), is amended to read as follows:

"(j)(1) Except as otherwise provided in this subsection, until June 30, 1976, the Corporation shall not approve, under regulations adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933, by order or otherwise, a conversion from the mutual to stock form of organization involving or to involve an insured institution, except that this sentence shall not be deemed to limit now or hereafter the authority of the Corporation to approve conversions in supervisory cases. The Corporation may by rule, regulation, or otherwise and under such civil penalties (which may be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection.

(2) The number of applications for conversion which the Corporation may approve pursuant to such regulations prior to such date shall be determined by the Corporation but shall not in any case be in excess of 1 percentum of the total number of all insured institutions in existence on the date of enactment, exclusive of the number of applications submitted for filing prior to May 22, 1973. *Provided*, That the Corporation shall process to final determination any application submitted for filing prior to May 22, 1973, pursuant to regulations in effect and adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933: with further proviso that, with respect to a plan of conversion of any such applicant which, before May 22, 1973, has given written public notice to its accountholders of adoption of a plan of conversion or has obtained waiver forms from substantially all its new accountholders subsequent to the giving of such notice, such plan need not require payment for stock distributed to accountholders as of a record date prior to the date of such notice.

"(3) Notwithstanding any other provision of law, an insured institution converting in accordance with this subsection may retain its Federal charter. The Corporation shall not, however, permit the conversion of Federally chartered associations in States the laws of which do not authorize the operation of State chartered stock associations, except that the prohibition contained in this sentence shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, or a State where all insured institutions domiciled therein are Federally chartered.

"(4) Any aggrieved person may obtain review of a final action of the Federal Home Loan Bank Board or the Corporation which approves, with or without conditions, or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of subsection (k) of section 408 of this title (12 U.S.C. 1730a(k)) within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Corporation, whichever is later.

"(5) The Corporation shall, at least annually and more often as circumstances require, render reports to the Congress on the exercise of its authority under this subsection.

"(6) In implementing the provisions of this subsection the Corporation shall regulate the approvals granted so as to achieve (A) as much geographical dispersion as practicable; (B) an equitable distribution with respect to the size of converting institutions; (C) an appropriate distribution between State chartered and Federally chartered institutions; (D) timeliness of filing; (E) flexibility to the extent possible in plans of conversion taking into account the characteristics of particular converting institutions; (F) the meeting of capital needs; and (G) such other reasonable results as it may consider necessary or appropriate in the public interest."

MORATORIUM ON CONVERSION OF FEDERAL DEPOSIT INSURANCE CORPORATION INSURED INSTITUTIONS

SEC. 106. Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end thereof the following new subsection:

"(10) Until June 30, 1976, the responsible agency shall not grant any approval required by law which has the practical effect of permitting a conversion from the mutual to the stock form of organization, including approval of any application pending on the date of enactment of this subsection, except that this sentence shall not be deemed to limit now or hereafter the authority of the responsible agency to grant approvals in cases where the responsible agency finds that it must act in order to maintain the safety, soundness, and stability of an insured bank. The responsible agency may by rule, regulation, or otherwise and under such civil penalties (which shall be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection."

EXTENSION OF FLEXIBLE REGULATION OF INTEREST RATES AUTHORITY

SEC. 107. Section 7 of the Act of September 21, 1966 (Public Law 89-597), is amended by striking out "December 31, 1974" and inserting in lieu thereof "December 31, 1975".

INCREASE DOLLARS LIMITATION ON THE COST FOR CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS

SEC. 108. The ninth paragraph of section 10 of the Federal Reserve Act, as amended (12 U.S.C. 522), is amended by striking out

"$60,000,000" and inserting in lieu thereof "$140,000,000".

PURCHASE OF UNITED STATES OBLIGATIONS BY FEDERAL RESERVE BANKS

SEC. 109. (a) Section 14(b) of the Federal Reserve Act, as amended (12 U.S.C. 355), is amended by striking out "November 1, 1973" and inserting in lieu thereof "November 1, 1975" and by striking out "October 31, 1973" and inserting in lieu thereof "October 31, 1975".

SUPERVISORY AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM OVER BANK HOLDING COMPANIES AND THEIR NONBANKING SUBSIDIARIES

SEC. 110. Subsection (b) of section 8 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818(b)), is amended by adding at the end thereof the following new paragraph:

"(3) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a holding company, as those terms are defined in the Bank Holding Company Act of 1956, in the same manner as they apply to a State member insured bank."

INDEPENDENCE OF FINANCIAL REGULATORY AGENCIES

SEC. 111. No officer or agency of the United States shall have any authority to require the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration to submit legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the President.

INCREASE IN AUTHORITY OF THE TREASURY TO PURCHASE FEDERAL HOME LOAN BANK OBLIGATIONS

SEC. 112. Subsection (i) of section 11 of the Federal Home Loan Bank Act, as amended (12 U.S.C. 1431(i)), is amended as follows:

(1) In the fourth sentence of the first paragraph, strike out "subsection" both places it appears and insert in lieu thereof "paragraph".

(2) Strike out the second paragraph and insert in lieu thereof the following:

"In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligations issued pursuant to this section in amounts not to exceed $2,000,000,000. The authority provided in this paragraph shall expire August 10, 1975.

"Notwithstanding the foregoing, the authority provided in this subsection may be exercised during any calendar quarter beginning after the date of enactment of the Depository Institutions Amendments of 1974 only if the Secretary of the Treasury and the Chairman of the Federal Home Loan Bank Board certify to the Congress that (1) alternative means cannot be effectively employed to permit members of the Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market, and (2) the ability to supply such funds is substantially impaired because of monetary stringency and a high level of interest rates. Any funds borrowed under this subsection shall be repaid by the Home Loan Banks at the earliest practicable date.".

AUTHORITY OF THE FEDERAL HOME LOAN MORTGAGE CORPORATION TO PURCHASE MORTGAGES FROM STATE INSURED INSTITUTIONS

SEC. 113. The first sentence of section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting "or from any financial institution the deposits or accounts of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 per centum of the total amount of such deposits in all banks, building and loan, savings and loan, and homestead associations (including cooperative banks) in that State" immediately after "agency of the United States".

TECHNICAL AMENDMENT

SEC. 114. (a) Section 7(d)(2) of the Act of August 16, 1973 (Public Law 93-100), is amended by striking out "the Commonwealth of Puerto Rico,".

(b) The amendment made by subsection (a) applies with respect to any taxable year or other taxable period beginning on or after August 16, 1973.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION SECONDARY RESERVE ADJUSTMENT

SEC. 115. Paragraph (1) of subsection (d) of section 404 of the National Housing Act, as amended (12 U.S.C. 1727), is amended by inserting "(A)" immediately after "(d)(1)" and by adding at the end thereof the following:

"(B)(i) As used in this subparagraph (B), 'minimum net reduction year' means a year in which, at the close of December 31, the aggregate of the primary reserve and secondary reserve equals or exceeds 1¼ per centum of the total amount of all accounts of insured members of all insured institutions, and 'beginning balance' means, with respect to each insured institution, the amount of such institution's pro rata share, if any, of the secondary reserve as of the close of December 31, 1973, plus any amount or amounts which, after such close, shall have been transferred to such institution under the last sentence of subsection (e) of this section.

"(ii) In May of each year succeeding each of the first ten minimum net reduction years occurring after December 31, 1973, the Corporation shall reduce the amount of each insured institution's pro rata share, if any, of the secondary reserve as of the preceding December 31 by making to the extent available, a cash refund to each such institution of the difference, if any, between such pro rata share and the applicable percentage of its beginning balance prescribed in the following table:

"Minimum net reduction year:	*Percent of beginning balance*
1	98.1818182
2	94.5454546
3	89.0909091
4	81.8181818
5	72.7272727
6	61.8181818
7	49.0909091
8	34.5454546
9	18.1818182
10	0.0000000".

CREDIT UNION MANAGEMENT: REASONABLE HEALTH AND ACCIDENT INSURANCE NOT CONSIDERED COMPENSATION

SEC. 116. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended by striking the period at the end thereof and adding ": *Provided, however,* That reasonable health, accident, and similar insurance protection shall not be considered compensation under regulations promulgated by the Administrator.".

TITLE II—NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

ESTABLISHMENT

SEC. 201. There is established the National Commission on Electronic Fund Transfers (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States.

MEMBERSHIP

SEC. 202. (a) The Commission shall be composed of twenty-six members as follows:

(1) the Chairman of the Board of Governors of the Federal Reserve System or his delegate;

(2) the Attorney General or his delegate;

(3) the Comptroller of the Currency or his delegate;

(4) the Chairman of the Federal Home Loan Bank Board or his delegate;

(5) the Administrator of the National Credit Union Administration or his delegate;

(6) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation or his delegate;

(7) the Chairman of the Federal Communications Commission or his delegate;

(8) the Postmaster General or his delegate;

(9) the Secretary of the Treasury or his delegate;

(10) the Chairman of the Federal Trade Commission or his delegate;

(11) two individuals, appointed by the President, one of whom is an official of a State agency which regulates banking, or similar financial institutions, and one of whom is an official of a State agency which regulates thrift or similar financial institutions;

(12) seven individuals, appointed by the President, who are officers or employees of, or who otherwise represent banking, thrift, or other business entities, including one representative each of commercial banks, mutual savings banks, savings and loan associations, credit unions, retailers, nonbanking institutions offering credit card services, and organizations providing interchange services for credit cards issued by banks;

(13) five individuals, appointed by the President, from private life who are not affiliated with, do not represent and have no substantial interest in any banking, thrift, or other financial institution, including but not limited to credit unions, retailers, and insurance companies;

(14) the Comptroller General of the United States or his delegate; and

(15) the Director of the Office of Technology Assessment.

(b) The Chairperson shall be designated by the President at the time of his appointment from among the members of the Commission and such selection shall be by and with the advice and consent of the Senate unless the appointee holds an office to which he was appointed by and with the advice and consent of the Senate.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

FUNCTIONS

SEC. 203. (a) The Commission shall conduct a thorough study and investigation and recommend appropriate administrative action and legislation necessary in connection with the possible development of public or private electronic fund transfer systems, taking into account, among other things—

(1) the need to preserve competition among the financial institutions and other business enterprises using such a system;

(2) the need to promote competition among financial institutions and to assure Government regulation and involvement or participation in a system competitive with the private sector be kept to a minimum;

(3) the need to prevent unfair or discriminatory practices by any financial institution or business enterprise using or desiring to use such a system;

(4) the need to afford maximum user and consumer convenience;

(5) the need to afford maximum user and consumer rights to privacy and confidentiality;

(6) the impact of such a system on economic and monetary policy;

(7) the implications of such a system on the availability of credit;

(8) the implications of such a system expanding internationally and into other forms of electronic communications; and

(9) the need to protect the legal rights of users and consumers.

(b) The Commission shall make an interim report within one year of its findings and recommendations and at such other times as it deems advisable and shall transmit to the President and to the Congress not later than two years after the date of enactment of this Act a final report of its findings and recommendations. Any such report shall include all hearing transcripts, staff studies, and other material used in preparation of the report. The interim and final reports shall be made available to the public upon transmittal. Sixty days after transmission of its final report the Commission shall cease to exist.

(c) The Commission shall not be required to obtain the clearance of any Federal agency prior to the transmittal of any interim or final report.

POWERS OF COMMISSION

SEC. 204. (a) The Commission may for the purpose of carrying out this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d)(1) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpena under paragraph (1) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas of the Commission shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

ADMINISTRATION

SEC. 205. (a) The Commission—

(1) may appoint with the advice and consent of the Senate and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $150 a day for individuals.

(b) The Comptroller General is authorized to make detailed audits of the books and records of the Commission, and shall report the results of any such audit to the Commission and to the Congress.

COMPENSATION

SEC. 206. (a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) A member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate of $150 per day when engaged in the performance of his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 207. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request, such data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

(b) The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Commission may request to assist it in carrying out its functions.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated without fiscal year limitations such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this title.

TITLE III—FAIR CREDIT BILLING

§ 301. Short title

This title may be cited as the "Fair Credit Billing Act".

§ 302. Declaration of purpose

The last sentence of section 102 of the Truth in Lending Act (15 U.S.C. 1601) is amended by striking out the period and inserting in lieu thereof a comma and the following: "and to protect the consumer against inaccurate and unfair credit billing and credit card practices."

§ 303. Definitions of creditor and open end credit plan

The first sentence of section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows: "The term 'creditor' refers only to creditors who regularly extend, or arrange for the extension of, credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, whether in connection with loans, sales of property or services, or otherwise. For the purposes of the requirements imposed under Chapter 4 and sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(9), and 127(b)(11) of Chapter 2 of this Title, the term 'creditor' shall also include card issuer whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open end credit plans.

§ 304. Disclosure of fair credit billing rights

(a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end thereof a new paragraph as follows:

"(8) A statement, in a form prescribed by regulations of the Board of the protection provided by sections 161 and 170 to an obligor and the creditor's responsibilities under sections 162 and 170. With respect to each of two billing cycles per year, at semiannual intervals, the creditor shall transmit such statement to each obligor to whom the creditor is required to transmit a statement pursuant to section 127(b) for such billing cycle."

(b) Section 127(c) of such Act (15 U.S.C. 1637(c)) is amended to read:

"(c) In the case of any existing account under an open end consumer credit plan having an outstanding balance of more than $1 at or after the close of the creditor's first full billing cycle under the plan after the effective date of subsection (a) or any amendments thereto, the items described in subsection (a), to the extent applicable and not previously disclosed, shall be disclosed in a notice mailed or delivered to the obligor not later than the time of mailing the next statement required by subsection (b)."

§ 305. Disclosure of billing contact

Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end thereof a new paragraph as follows:

"(11) The address to be used by the creditor for the purpose of receiving billing inquiries from the obligor."

§ 306. Billing practices

The Truth in Lending Act (15 U.S.C. 1601–1665) is amended by adding at the end thereof a new chapter as follows:

"Chapter 4—CREDIT BILLING

"Sec.
"161. Correction of billing errors.
"162. Regulation of credit reports.
"163. Length of billing period.
"164. Prompt crediting of payments.
"165. Crediting excess payments.
"166 Prompt notification of returns.
"167. Use of cash discounts.
"168. Prohibition of tie-in services.
"169. Prohibition of offsets.
"170. Rights of credit card customers.
"171. Relation to State laws.

"§ 161. Correction of billing errors

"(a) If a creditor, within sixty days after having transmitted to an obligor a statement of the obligor's account in connection with an extension of consumer credit, receives at the address disclosed under *section 127*(b)(11) a written notice (other than notice on a payment stub or other payment medium supplied by the creditor if the creditor so stipulates with the disclosure required under section 127(a)(8)) from the obligor in which the obligor—

"(1) sets forth or otherwise enables the creditor to identify the name and account number (if any) of the obligor,

"(2) indicates the obligor's belief that the statement contains a billing error and the amount of such billing error, and

"(3) sets forth the reasons for the obligor's belief (to the extent applicable) that the statement contains a billing error,

the creditor shall, unless the obligor has, after giving such written notice and before the expiration of the time limits herein specified, agreed that the statement was correct—

"(A) not later than thirty days after the receipt of the notice, send a written acknowledgement thereof to the obligor, unless the action required in subparagraph (B) is taken within such thirty-day period, and

"(B) not later than two complete billing cycles of the creditor (in no event later than ninety days) after the receipt of the notice and prior to taking any action to collect the amount, or any part thereof, indicated by the obligor under paragraph (2) either—

"(i) make appropriate corrections in the account of the obligor, including the crediting of any finance charges on amounts erroneously billed, and transmit to the obligor a notification of such corrections and the creditor's explanation of any change in the amount indicated by the obligor under paragraph (2) and, if any such change is made and the obligor so requests, copies of documentary evidence of the obligor's indebtedness; or

"(ii) send a written explanation or clarification to the obligor, after having conducted an investigation, setting forth to the extent applicable the reasons why the creditor believes the account of the obligor was correctly shown in the statement and, upon request of the obligor, provide copies of documentary evidence of the obligor's indebtedness. In the case of a billing error where the obligor alleges that the creditor's billing statement reflects goods not delivered to the obligor or his designee in accordance with the agreement made at the time of the transaction, a creditor may not construe such amount to be correctly shown unless he determines that such goods were actually delivered, mailed, or otherwise sent to the obligor and provides the obligor with a statement of such determination.

After complying with the provisions of this subsection with respect to an alleged billing error, a creditor has no further responsibility under this section if the obligor continues to make substantially the same allegation with respect to such error.

"(b) For the purpose of this section, a 'billing error' consists of any of the following:

"(1) A reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.

"(2) A reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.

"(3) A reflection on a statement of goods or services not accepted by the obligor or his designee or not delivered to the obligor or his designee in accordance with the agreement made at the time of a transaction.

"(4) The creditor's failure to reflect properly on a statement a payment made by the obligor or a credit issued to the obligor.

"(5) A computation error or similar error of an accounting nature of the creditor on a statement.

"(6) Any other error described in regulations of the Board.

"(c) For the purposes of this section, 'action to collect the amount, or any part thereof, indicated by an obligor under paragraph (2)' does not include the sending of statements of account to the obligor following written notice from the obligor as specified under subsection (a), if—

"(1) A reflection on a statement of an extension of because of the failure of the obligor to pay the amount indicated under paragraph (2) of subsection (a), and

"(2) the creditor indicates the payment of such amount is not required pending the creditor's compliance with this section.

Nothing in this section shall be construed to prohibit any action by a creditor to collect any amount which has not been indicated by the obligor to contain a billing error.

"(d) Pursuant to regulations of the Board, a creditor operating an open end consumer credit plan may not, prior to the sending of the written explanation or clarification required under paragraph (B)(ii), restrict or close an account with respect to which the obligor has indicated pursuant to subsection (a) that he believes such account to contain a billing error solely because of the obligor's failure to pay the amount indicated to be in error. Nothing in this subsection shall be deemed to prohibit a creditor from applying against the credit limit on the obligor's account the amount indicated to be in error.

"(e) Any creditor who fails to comply with the requirements of this section or section 162 forfeits any right to collect from the obligor the amount indicated by the obligor under paragraph (2) of subsection (a) of this section, and any finance charges thereon, except that the amount required to be forfeited under this subsection may not exceed $50.

"§ 162. Regulation of credit reports

"(a) After receiving a notice from an obligor as provided in section 161(a), a creditor or his agent may not directly or indirectly threaten to report to any person adversely on the obligor's credit rating or credit standing because of the obligor's failure to pay the amount indicated by the obligor under section 161(a)(2), and such amount may not be reported as delinquent to any third party until the creditor has met the requirements of section 161 and has allowed the obligor the same number of days (not less than ten) thereafter to make payment as is provided under the credit agreement with the obligor for the payment of undisputed amounts.

"(b) If a creditor receives a further written notice from an obligor that an amount is still in dispute within the time allowed for payment under subsection (a) of this section, a creditor may not report to any third party that the account of the obligor is delinquent because the obligor has failed to pay an amount which he has indicated under section 161(a)(2), unless the creditor also reports that the amount is in dispute and, at the same time, notifies the obligor of the name and address of each party to whom the creditor is reporting information concerning the delinquency.

"(c) A creditor shall report any subsequent resolution of any delinquencies reported pursuant to subsection (b) to the parties to whom such delinquencies were initially reported.

"§ 163. Length of billing period

"(a) If an open end consumer credit plan provides a time period within which an obligor may repay any portion of the credit extended without incurring an additional finance charge, such additional finance charge may not be imposed with respect to such portion of the credit extended for the billing cycle of which such period is a part unless a statement which includes the amount upon which the finance charge for that period is based was mailed at least fourteen days prior to the date specified in the statement by which payment must be made in order to avoid imposition of that finance charge.

"(b) Subsection (a) does not apply in any case where a creditor has been prevented, delayed, or hindered in making timely mailing or delivery of such periodic statement within the time period specified in such subsection because of an act of God, war, natural disaster, strike, or other excusable or justifiable cause, as determined under regulations of the Board.

"§ 164. Prompt crediting of payments

"Payments received from an obligor under an open end consumer credit plan by the creditor shall be posted promptly to the obligor's account as specified in regulations of the Board. Such regulations shall prevent a finance charge from being imposed on any obligor if the creditor has received the obligor's payments in readily identifiable form in the amount, manner, location, and time indicated by the creditor to avoid the imposition thereof.

"§ 165. Crediting excess payments

"Whenever an obligor transmits funds to a creditor in excess of the total balance due on an open end consumer credit account, the creditor shall promptly (1) upon request of the obligor refund the amount of the overpayment, or (2) credit such amount to the obligor's account.

"§ 166. Prompt notification of returns.

"With respect to any sales transaction where a credit card has been used to obtain credit, where the seller is a person other than the card issuer, and where the seller accepts or allows a return of the goods or forgiveness of a debit for services which were the subject of such sale, the seller shall promptly transmit to the credit card issuer a credit statement with respect thereto and the credit card issuer shall credit the account of the obligor for the amount of the transaction.

"§ 167. Use of cash discounts

"(a) With respect to a credit card which may be used for extensions of credit in sales transactions in which the seller is a person other than the card issuer, the card issuer may not, by contract or otherwise, prohibit any such seller from offering a discount to a cardholder to induce the cardholder to pay by cash, check, or similar means rather than use a credit card.

"(b) With respect to any sales transaction, any discount not in excess of 5 per centum offered by the seller for the purpose of inducing payment by cash, check, or other means not involving the use of a credit card shall not constitute a finance charge as determined under section 106, if such discount is offered to all prospective buyers and its availability is disclosed to all prospective buyers clearly and conspicuously in accordance with regulations of the Board.

"§ 168. Prohibition of tie-in services

"Notwithstanding any agreement to the contrary, a card issuer may not require a seller, as a condition to participating in a credit card plan, to open an account with or procure any other service from the card issuer or its subsidiary or agent.

"§ 169. Prohibition of offsets

"(a) A card issuer may not take any action to offset a cardholder's indebtedness arising in connection with a consumer credit transaction under the relevant credit card plan against funds of the cardholder held on deposit with the card issuer unless—

"(1) such action was previously authorized in writing by the cardholder in accordance with a credit plan whereby the cardholder agrees periodically to pay debts incurred in his open end credit account by permitting the card issuer periodically to deduct all or a portion of such debt from the cardholder's deposit account, and

"(2) such action with respect to any outstanding disputed amount not be taken by

the card issuer upon request of the cardholder.

In the case of any credit card account in existence on the effective date of this section, the previous written authorization referred to in clause (1) shall not be required until the date (after such effective date) when such account is renewed, but in no case later than one year after such effective date. Such written authorization shall be deemed to exist if the card issuer has previously notified the cardholder that the use of his credit card account will subject any funds which the card issuer holds in deposit accounts of such cardholder to offset against any amounts due and payable on his credit card account which have not been paid in accordance with the terms of the agreement between the card issuer and the cardholder.

"(b) This section does not alter or affect the right under State law of a card issuer to attach or otherwise levy upon funds of a cardholder held on deposit with the card issuer if that remedy is constitutionally available to creditors generally.

"§ 170. Rights of credit card customers

"(a) Subject to the limitation contained in subsection (b), a card issuer who has issued a credit card to a cardholder pursuant to an open end consumer credit plan shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the credit card is used as a method of payment or extension of credit if (1) the obligor has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the credit card; (2) the amount of the initial transaction exceeds $50; and (3) the place where the initial transaction occurred was in the same State as the mailing address previously provided by the cardholder or was within 100 miles from such address, except that the limitations set forth in clauses (2) and (3) with respect to an obligor's right to assert claims and defenses against a card issuer shall not be applicable to any transaction in which the person honoring the credit card (A) is the same person as the card issuer, (B) is controlled by the card issuer, (C) is under direct or indirect common control with the card issuer, (D) is a franchised dealer in the card issuer's products or services, or (E) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the credit card issued by the card issuer.

"(b) The amount of claims or defenses asserted by the cardholder may not exceed the amount of credit outstanding with respect to such transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of such claim or defense. For the purpose of determining the amount of credit outstanding in the preceding sentence, payments and credits to the cardholder's account are deemed to have been applied, in the order indicated, to the payment of: (1) late charges in the order of their entry to the account; (2) finance charges in order of their entry to the account; and (3) debits to the account other than those set forth above, in the order in which each debit entry to the account was made.

"§ 171. Relation to State laws

"(a) This chapter does not annul, alter, or affect, or exempt any person subject to the provisions of this chapter from complying with, the laws of any State with respect to credit billing practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any State law is inconsistent with any provision of this chapter if the Board determines that such law gives greater protection to the consumer.

"(b) The Board shall by regulation exempt from the requirements of this chapter any class of credit transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement."

§ 307. Conforming amendments

(a) The table of chapters of the Truth in Lending Act is amended by adding immediately under item 3 the following:

"4. CREDIT BILLING ..... 161"

(b) Section 111(d) of such Act (15 U.S.C. 1610(d)) is amended by striking out "and 130" and inserting in lieu thereof a comma and the following: "130, and 166".

(c) Section 121(a) of such Act (15 U.S.C. 1631(a)) is amended—

(1) by striking out "and upon whom a finance charge is or may be imposed"; and

(2) by inserting "or chapter 4" immediately after "this chapter".

(d) Section 121(b) of such Act (15 U.S.C. 1631(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

(e) Section 122(a) of such Act (15 U.S.C. 1632(a)) is amended by inserting "or chapter 4" immediately after "this chapter".

(f) Section 122(b) of such Act (15 U.S.C. 1632(b)) is amended by inserting "or chapter 4" immediately after "this chapter".

§ 308. Effective date

This title takes effect upon the expiration of one year after the date of its enactment.

TITLE IV—AMENDMENTS TO THE TRUTH IN LENDING ACT

§ 401. Advertising; more-than-four-installment rule

(a) Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661–1665) is amended by adding at the end thereof a new section as follows:

"§ 146. More-than-four-installment rule

"Any advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit repayable in more than four installments shall, unless a finance charge is imposed, clearly and conspicuously state, in accordance with the regulations of the Board:

"'THE COST OF CREDIT IS INCLUDED IN THE PRICE QUOTED FOR THE GOODS AND SERVICES.'"

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"146. More-than-four-installment rule.".

§ 402. Agricultural credit exemption

Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended by adding at the end thereof a new paragraph as follows:

"(5) Credit transactions primarily for agricultural purposes in which the total amount to be financed exceeds $25,000."

§ 403. Administrative enforcement

(a) Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(b) Section 108(a) of such Act (15 U.S.C. 1607(a)) is amended by adding at the end thereof a new paragraph as follows:

"(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association."

§ 404. Liens arising by operation of State law

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended—

(1) by striking out "is" the first time it law, is or will be"; and

(2) by inserting after "obligor" the second appears in the first sentence of subsection (a) and inserting in lieu thereof ", including any such interest arising by operation of time it appears in the first sentence of subsection (b) the following: ", including any such interest arising by operation of law,".

§ 405. Time limit for right of rescission

Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by adding at the end thereof a new subsection as follows:

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs earlier, notwithstanding the fact that the disclosures required under this section or any other material disclosures required under this chapter have not been delivered to the obligor."

§ 406. Good faith compliance

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(f) No provision of this section or section 112 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason."

§ 407. Liability for multiple disclosures

Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(g) The multiple failure to disclose to any person any information required under this chapter to be disclosed in connection with a single account under an open end consumer credit plan, other single consumer credit sale, consumer loan, or other extension of consumer credit, shall entitle the person to a single recovery under this section but continued failure to disclose after a recovery has been granted shall give rise to rights to additional recoveries."

§ 408. Civil liability

(a) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of the failure;

"(2)(A) in the case of an individual action twice the amount of any finance charge in connection with the transaction, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of $100,000 or 1 per centum of the net worth of the creditor; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and

persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional."

(b) Section 130(b) of such Act (15 U.S.C. 1640(b)) is amended by inserting after "this section" the first place it appears the following: "for any failure to comply with any requirement imposed under this chapter,".

(c) Section 130(c) of such Act (15 U.S.C. 1640(c)) is amended by striking out "chapter" and inserting in lieu thereof "title".

(d) Section 130 of such Act (15 U.S.C. 1640) is amended by adding at the end thereof a new subsection as follows:

"(h) A person may not take any action to offset any amount for which a creditor is potentially liable to such person under subsection (a)(2) against any amount owing to such creditor by such person, unless the amount of the creditor's liability to such person has been determined by judgment of a court of competent jurisdiction in an action to which such person was a party."

(e) The amendments made by sections 406, 407, and 408 shall apply in determining the liability of any person under chapter 2 or 4 of the Truth in Lending Act, unless prior to the date of enactment of this Act such liability has been determined by final judgment of a court of competent jurisdiction and no further review of such judgment may be had by appeal or otherwise.

§ 409. Full statement of closing costs

Section 121 of the Truth in Lending Act (15 U.S.C. 1631) is amended by adding at the end thereof a new subsection as follows:

"(c) For the purpose of subsection (a), the information required under this chapter shall include a full statement of closing costs to be incurred by the consumer, which shall be presented, in accordance with the regulations of the Board—

"(1) prior to the time when any downpayment is made, or

"(2) in the case of a consumer credit transaction involving real property, at the time the creditor makes a commitment with respect to the transaction.

The Board may provide by regulation that any portion of the information required to be disclosed by this section may be given in the form of estimates where the provider of such information is not in a position to know exact information."

§ 410. Business use of credit cards

(a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631–1644) is amended by adding the following new section at the end thereof:

"§ 135. Business credit cards

"The exemption provided by section 104(1) does not apply to the provisions of sections 132, 133, and 134, except that a card issuer and a business or other organization which provides credit cards issued by the same card issuer to ten or more of its employees may by contract agree as to liability of the business or other organization with respect to unauthorized use of such credit cards without regard to the provisions of section 133, but in no case may such business or other organization or card issuer impose liability upon any employee with respect to unauthorized use of such a credit card except in accordance with and subject to the limitations of section 133."

(b) The table of sections of such chapter is amended by adding at the end thereof a new item as follows:

"135. Business credit cards.".

§ 411. Identification of transaction.

Section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period and a brief identification on or accompanying the statement of each extension of credit in a form prescribed by regulations of the Board sufficient to enable the obligor to identify the transaction, or relate it to copies of sales vouchers or similar instruments previously furnished."

§ 412. Exemption for State lending agencies

Section 125(e) of the Truth in Lending Act (15 U.S.C. 1635(e)) is amended by striking the period at the end thereof and adding the following: "or to a consumer credit transaction in which an agency of a State is the creditor."

§ 413. Liability of assignees

(a) Chapter 1 of the Truth in Lending Act (15 U.S.C. 1601–1613) is amended by adding at the end thereof a new section as follows:

"§ 115. Liability of assignees

"Except as otherwise specifically provided in this title, any civil action for a violation of this title which may be brought against the original creditor in any credit transaction may be maintained against any subsequent assignee of the original creditor where the violation from which the alleged liability arose is apparent on the face of the instrument assigned unless the assignment is involuntary."

(b) The analysis of such chapter is amended by adding at the end thereof a new item as follows:

"115. Liability of assignees.".

§ 414. Credit card fraud

Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended to read as follows:

"§ 134. Fraudulent use of credit card

"(a) Whoever knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value of aggregating $1,000 or more; or

"(b) Whoever, with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(c) Whoever, with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(d) Whoever knowingly receives, conceals, uses, or transport money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (1) within any one-year period has a value aggregating $1,000 or more, (2) has moved in or is part of, or which constitutes interstate or foreign commerce, and (3) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card; or

"(e) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeited, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

"(f) Whoever in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained—

shall be fined not more than $10,000, or imprisoned not more than ten years, or both."

§ 415. Grace period for consumers

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended—

(1) by amending subsection (a)(1) to charge may be imposed, including the time read as follows:

"(1) The conditions under which a finance period (if any) within which any credit extended may be repaid without incurring a finance charge, except that the creditor may, at his election and without disclosure, impose no such finance charge if payment is received after the termination of such time period."; and

(2) by amending subsection (b)(10) to read as follows:

"(10) The date by which or the period (if any) within which, payment must be made to avoid additional finance charges, except that the creditor may, at his election and without disclosure, impose no such additional finance charge if payment is received after such date or the termination of such period."

§ 416. Effective date

This title takes effect upon the date of its enactment, except that sections 409 and 411 take effect upon the expiration of one year after the date of its enactment.

TITLE V—EQUAL CREDIT OPPORTUNITY

§ 501. Short title

This title may be cited as the "Equal Credit Opportunity Act".

§ 502. Findings and purpose

The Congress finds that there is a need to insure that the various financial institutions and other firms engaged in the extensions of credit exercise their responsibility to make credit available with fairness, impartiality, and without discrimination on the basis of sex or marital status. Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

§ 503. Amendment to the Consumer Credit Protection Act

The Consumer Credit Protection Act (Public Law 90–321), is amended by adding at the end thereof a new title VII:

"TITLE VII—EQUAL CREDIT OPPORTUNITY

"Sec.
"701. Prohibited discrimination.
"702. Definitions.
"703. Regulations.
"704. Administrative enforcement.
"705. Relation to State laws.
"706. Civil liability.
"707. Effective date.

"§ 701. Prohibited discrimination.

"(a) It shall be unlawful for any creditor to discriminate against any applicant on the

basis of sex or marital status with respect to any aspect of a credit transaction.

"(b) An inquiry of marital status shall not constitute discrimination for purposes of this title if such inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit, and not to discriminate in a determination of creditworthiness.

"§ 702. Definitions

"(a) The definitions and rules of construction set forth in this section are applicable for the purposes of this title.

"(b) The term 'applicant' means any person who applies to a creditor directly for an extension, renewal, or continuation of credit, or applies to a creditor, indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit.

"(c) The term 'Board' refers to the Board of Governors of the Federal Reserve System.

"(d) The term 'credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.

"(e) The term 'creditor' means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

"(f) The term 'person' means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

"(g) Any reference to any requirement imposed under this title or any provision thereof includes reference to the regulations of the Board under this title or the provision thereof in question.

"§ 703. Regulations

"The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiations, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith. Such regulations shall be prescribed as soon as possible after the date of enactment of this Act, but in no event later than the effective date of this Act.

"§ 704. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under:

"(1) Section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency,

"(B) member banks of the Federal Reserve System (other than national banks), by the Board,

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

"(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

"(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

"(5) The Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or foreign air carrier subject to that Act.

"(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(7) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association;

"(8) the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers; and

"(9) the Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law. The exercise of the authorities of any of the agencies referred to in subsection (a) for the purpose of enforcing compliance with any requirement imposed under this title shall in no way preclude the exercise of such authorities for the purpose of enforcing compliance with any other provision of law not relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

"§ 705. Relation to State laws

"(a) A request for the signature of both parties to a marriage for the purpose of creating a valid lien, passing clear title, waiving inchoate rights to property, or assigning earnings, shall not constitute discrimination under this title: *Provided, however,* That this provision shall not be construed to permit a creditor to take sex or marital status into account in connection with the evaluation of creditworthiness of any applicant.

"(b) Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this title.

"(c) Any provision of State law which prohibits the separate extension of consumer credit to each party to a marriage shall not apply in any case where each party to a marriage voluntarily applies for separate credit from the same creditor: *Provided,* That in any case where such a State law is so preempted, each party to the marriage shall be solely responsible for the debt so contracted.

"(d) When each party to a marriage separately and voluntarily applies for and obtains separate credit accounts with the same creditor, those accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States.

"(e) Except as otherwise provided in this title, the applicant shall have the option of pursuing remedies under the provisions of this title in lieu of, but not in addition to, the remedies provided by the laws of any State or governmental subdivision relating to the prohibition of discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction.

"§ 706. Civil liability

"(a) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant in an amount equal to the sum of any actual damages sustained by such applicant acting either in an individual capacity or as a representative of a class.

"(b) Any creditor who fails to comply with any requirement imposed under this title shall be liable to the aggrieved applicant for punitive damages in an amount not greater than $10,000, as determined by the court, in addition to any actual damages provided in section 706(a): *Provided, however,* That in pursuing the recovery allowed under this subsection, the applicant may proceed only in an individual capacity and not as a representative of a class.

"(c) Section 706(b) notwithstanding, any creditor who fails to comply with any requirement imposed under this title may be liable for punitive damages in the case of a class action in such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not exceed the lesser of $100,000 or 1 percent of the net worth of the creditor. In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

"(d) When a creditor fails to comply with any requirement imposed under this title, an aggrieved applicant may institute a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other action.

"(e) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court shall be added to any damages awarded by the court under the provisions of subsections (a), (b), and (c) of this section.

"(f) No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding that after

such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(g) Without regard to the amount in controversy, any action under this title may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

"§ 707. Effective date

"This title takes effect upon the expiration of one year after the date of its enactment.".

TITLE VI—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

FINDINGS

SEC. 601. The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

DEFINITIONS

SEC. 602. As used in this title—

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

SEC. 603. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organizations or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

SEC. 604. This title shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the House bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the House bill, insert the following: "An Act to increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a National Commission on Electronic Fund Transfers, and for other purposes."

And the Senate agree to the same.

WRIGHT PATMAN,
FERNAND J. ST GERMAIN,
FRANK ANNUNZIO,
WILLIAM A. BARRETT,
JIM HANLEY,
WILLIAM R. COTTER,
JOHN J. MOAKLEY,
THOMAS L. ASHLEY,
WILLIAM B. WIDNALL,
JOHN H. ROUSSELOT,
CHALMERS P. WYLIE,
ANGELO D. RONCALLO,
MATTHEW J. RINALDO,
Managers on the Part of the House.

JOHN SPARKMAN,
THOMAS J. MCINTYRE,
WILLIAM PROXMIRE,
HARRISON A. WILLIAMS,
WALLACE F. BENNETT,
JOHN TOWER,
BILL BROCK,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11221) to provide full deposit insurance for public units and to increase deposit insurance from $20,000 to $50,000, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The House bill provided for 100 percent insurance on the deposits of public funds of Federal, State and local governmental units in Federally insured banks, savings banks, savings and loan, building and loan, and homestead associations, cooperative banks, and credit unions. The Senate bill had no comparable provision. The Senate receded to the House bill with the following amendments: Time and savings deposits of public funds by Federal, State and local units in Federally insured depository institutions are fully insured up to the amount of $100,000 per account. Interest rate ceilings on such deposits are to be set by the appropriate financial supervisory agencies pursuant to regulations issued under the Act of September 21, 1966 (P.L. 89–597). A further amendment was incorporated into the public units deposit provision by the conferees in order to protect both Federal savings and loan associations and the public with regard to the application of state governmental unit deposit acts. It would provide that Federal savings and loan associations may act as a surety, as defined by the Federal Home Loan Bank Board and thus would enable public funds to be protected in New Jersey and other States in which similar laws now or hereafter exist. The Advisory Commission on Intergovernmental Relations is directed to conduct a study of the impact of this section and report its findings to the Congress not later than two years from the date of enactment. The conferees agreed to an effective date for this provision of 30 days after the date of enactment. The House bill provided for an increase in the present ceiling of $20,000 on Federal deposit insurance to $50,000 on accounts in commercial banks, mutual savings banks, savings and loan associations, and credit unions. The Senate bill provided for an increase from $20,000 to $25,000. The conferees agreed on an increase to $40,000, with the increase in ceiling limitation to become effective 30 days after the date of enactment.

The Senate bill amended section 402(a) of the National Housing Act to change the name of the Federal Savings and Loan Insurance Corporation (FSLIC) to the Federal Savings Insurance Corporation (FSIC). The House bill had no comparable provision. The Senate receded to the House.

The Senate bill extended until June 30, 1976, a moratorium on the conversion from the mutual to stock form of organization for (savings and loan associations), except for a limited number of test conversions as follows:

(1) Those associations which had filed an application for conversions prior to May 22, 1973.

(2) A total of not more than 23 associations for conversion in states where conversions are presently authorized.

(3) A limited number of conversions not in excess of 1 percentum of the number of insured institutions in any state which enacts authorized legislation subsequent to May 22, 1974. The House bill had no comparable provision. The House receded to the Senate with an amendment authorizing an absolute number of test conversions during the two-

year moratorium period expiring June 30, 1976, not in excess of 1 percent of the present number of all insured institutions. Financial regulatory agencies would also be required to issue regulations substantially similar to those issued by the SEC with respect to the functions of the Commission. The House accepted the Senate provisions with an amendment directing the Corporation to process to final determination the applications of those associations (having submitted) plans of conversion prior to May 22, 1973. Those associations (which had provided) written public notice to accountholders of adoption of a plan for conversion shall be permitted to proceed without the requirement of a payment for stock distribution to accountholders as of a record date prior to the date of such notice, and under regulations and procedures in effect at the time of submission wherever necessary. Such approvals shall be in addition to those approved under the 1 percent criterion. The House amendment specified that approvals shall be allocated geographically by size, by type of charter, by timeliness of filing, by need for capital, to achieve flexible regulation, and on other public interest considerations. The Board is required to report at least annually to the Congress so that close monitoring of the test results can be assured.

The Senate bill provided for a moratorium on the conversion of mutual savings banks to the stock form of organization until June 30, 1976, except in the cases where conversion approval is required to maintain the safety, soundness and stability of an insured mutual savings bank. In considering applications, the responsible agency shall take cognizance of any undue difficulties likely to be encountered by financial institutions in very small communities, such as those with populations under 4,000, in their efforts to comply with State statutes prohibiting interlocking directorates of financial institutions. The House had no comparable provision. The House receded to the Senate.

The Senate bill amended section 7 of the Act of September 21, 1966 (P.L. 89-597) extending the authority of financial regulatory agencies to establish (under Regulation Q) ceilings that may be paid by banks on time and savings deposits and by building and loan, savings and loans, homestead associations and cooperative banks and on deposits, shares, and withdrawable accounts until December 31, 1975. The Senate bill further directed the regulatory agencies to give due consideration to existing market interest rates to insure a fair and appropriate rate of interest on savings. The House bill had no comparable provision. The conferees agreed to an extension of Reg. Q to December 31, 1975 and deleted reference to market rate consideration.

The Senate bill amended section 10 of the Federal Reserve Act authorizing the expenditure by the Federal Reserve of an additional $80 million for the construction of branch banking facilities. The House bill had no comparable provision. The House receded to the Senate. The conferees expect, however, that the Federal Reserve will conform to the requirements imposed upon Federal agencies by the President to undertake such construction in a manner which is consistent with efforts to reduce inflationary pressures. The conferees unanimously recommended that the Federal Reserve avail itself of the safeguards imposed by the General Services Administration on most Federal building construction and the advantages of requiring competitive bidding be fully considered at such time as a decision is reached to proceed.

The Senate bill amended section 14(b) of the Federal Reserve Act renewing until October 31, 1975, the authority of Federal Reserve banks to purchase directly from the Treausry public debt obligations up to a limit of $5 billion outstanding at any time. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 8(b) of the Federal Deposit Insurance Act providing the Federal Reserve Board with additional authority by expanding the scope of existing cease and desist powers to cover parent holding companies and non-banking subsidiaries where action of a parent holding company or its non-financial institution constitute a serious threat to the safety, soundness, or stability of a subsidiary bank. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 407(e) of the National Housing Act to expand the Federal Home Loan Bank Board's cease and desist powers to cover parent holding companies and non-savings and loan subsidiaries. The House had no comparable provision. Due to the distinctions between the operations of the average savings and load holding company and the average bank holding company, the conferees concluded extensive further hearings are indicated. Accordingly, the Senate receded to the House.

The Senate bill prohibited any officer or agency of the United States from requiring the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration to submit their legislative recommendations, testimony, and comments for approval, or review prior to their submission to the Congress provided such communications include a statement to the effect that the views expressed therein do not necessarily represent the views of the President. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 11 of the Federal Home Loan Bank Act increasing by $2 billion the authority of the Secretary of the Treasury to purchase Federal Home Loan Bank obligations, provided such authority were used only when: (1) the Home Loan Bank System cannot effectively employ alternative means in supplying funds to the mortgage market, and (2) the ability to supply such funds to housing is impaired by monetary stringency and rapidly rising interest rates. The House bill had no comparable provision. The House receded to the Senate provision, with an amendment to substitute the phrase "a high level of interest rates" for the phrase "rapidly rising interest rates" in the second criterion.

The Senate bill would prevent any Federal supervisory agency from exempting federally chartered financial institutions from complying with any State law or regulation which protects borrowers at those institutions. It also directed the Advisory Commission on Intergovernmental Relations to conduct a study on this issue and to report its findings to Congress by June 30, 1975. The House bill had no comparable provision. The Senate receded to the House.

The Senate bill amended section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act authorizing the corporation to purchase mortgages from any State insured financial institution (in addition to mortgages from any federally insured institution as at present), or from any HUD-approved mortgagee or person approved by the Corporation pursuant to the borrowing authority of section 11(i) of the Federal Home Loan Bank Act. The House bill had no comparable provision. The House receded to the Senate with an amendment restricting this additional power to authorizing the corporation to purchase and make commitments to purchase residential mortgages from any financial institution the deposits of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 of the total amount of such deposits in all banks, building and loan, savings and loan, homestead associations and cooperative banks in that State.

The Senate bill contained a technical amendment striking the Commonwealth of Puerto Rico from Section 7(d)(2), definition of "State", of Public Law 93-100 which imposed a moratorium on interstate taxation of depository institutions. As a result, Puerto Rico would be treated as a "foreign country" in line with current Federal Reserve Board regulations. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 404 of the National Housing Act providing a rebate to savings and loan associations whose balances in the secondary reserve fund of the Federal Savings and Loan Insurance Corporation are excessive and would not be reduced within a reasonable time under the present premium repayment structure. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill amended section 111 of the Federal Credit Union Act providing for permissive authority to Federal Credit Unions to provide reasonable health, accident, and other similar insurance protection for their directors and committee members not to be considered compensation. Forty-five States now permit the offering of similar plans my State-chartered credit unions. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill established a National Commission on Electronic Funds Transfers composed of 20 members appointed by the President to study the electronic funds transfer system and report its findings and recommendations to Congress no later than two years after enactment. The House bill had no comparable provision. The House receded to the Senate with amendment increasing the membership of the Commission to 26 members to insure broad representation in view of the complex intertwined issues involved. The addition by the House of the Comptroller General and the Director of the Office of Technology insures congressional continuity and consideration of those public policy considerations likely to arise requiring an appropriate legislative response. The House amendment specified an additional function of the Commission to the effect that a thorough study and investigation should be made of the need to promote competition for financial institutions and to assure government regulation and involvement or participation in a system competitive with the private sector be kept to a minimum. The conferees, however, believe further that during the existence of the study commission that federal agencies involved in electronic funds transfers, as well as those engaged in such activity in the private sector, recognize that potential payments mechanisms are in an experimental stage with a number of significant public policy questions unresolved, and hence all such efforts are subject to change and modification.

The Senate bill amended the Truth-in-Lending Act for the purpose of protecting the consumer against unfair and inaccurate credit billing and credit card practices. The House bill contained no comparable provision. The conferees accepted the Senate provision with an amendment to redefine the term "creditor".

The Senate bill provided a series of basically technical amendments designed to

improve the administration of the Truth in Lending Act. The House bill contained no comparable provisions. The conferees accepted the Senate provisions.

The Senate bill amended the Consumer Credit Protection Act to prohibit any creditor from discriminating against any applicant for credit on the basis of sex or marital status. The House bill contained no comparable provision. The conferees accepted the Senate provision with amendments to conform it more closely to the version of the "Equal Credit Opportunity Act" recently reported by the House Subcommittee on Consumer Affairs. The definition of the term "discriminate" was eliminated. The flexibility of the regulatory authority was broadened. It was made explicit that credit granted to an individual party to a marriage will be the sole responsibility of that party. The limitation on class action suits was further limited to the lesser of $100,000 or 1 percent of the net worth of the creditor to protect small business firms from catastrophic judgments. The effective date of the provision was extended from six months to one year to give the Federal Reserve Board sufficient time to issue regulations.

The Senate bill contained a provision allowing the proceeds of abandoned money orders and travelers' checks to escheat to the state in which they were purchased or, if the state of purchase is unknown, such proceeds would accrue to the state in which the issuing organization has its principal place of business. The House bill had no comparable provision. The House receded to the Senate.

The Senate bill contained a provision placing a limitation of $295 billion on Federal expenditures and net lending for the fiscal year 1975. The House bill had no comparable provision. The Senate receded to the House.

The conferees adopted as the title for H.R. 11221: "An act to increase deposit insurance from $20,000 to $40,000, to provide full insurance for public unit deposits of $100,000 per account, to establish a national commission on electronic fund transfers, and for other purposes."

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EXTENSIONS OF REMARKS

BALANCE THE BUDGET?

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, October 4, 1974

Mr. HARRY F. BYRD, JR. Mr. President, as the realization grows across the country that the huge deficits of the Federal Government are responsible for much of the inflation we are experiencing, discussion of ways to cut the budget is becoming widespread.

This is a healthy development. A national dialog on Federal spending is highly desirable.

I have advanced a number of proposals myself, and other ideas have been put forward by many of my colleagues and by officials of the executive branch.

Some members of the press also are making a contribution. A good example is an article by Howard Flieger on the editor's page of U.S. News & World Report, which appeared on September 16.

Mr. Flieger does a good job of explaining why budget cuts are essential, and he sets forth his candidates for reduction. I commend him for his effort, and in order to call his views to the attention of my colleagues, I ask unanimous consent that the text of his article, "Balance the Budget?" be printed in the Extensions of Remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BALANCE THE BUDGET?

(By Howard Flieger)

President Ford has set a balanced federal budget as a primary target for next year. And, as a matter of fact, he has a fighting chance of achieving it.

So what?

The words "balanced budget" have an encouraging ring to them. But you have to be realistic about these things. Of 212 million Americans, relatively few understand the impact of the federal budget on the economy.

A federal deficit means simply that the Government is spending more than it is taking in. Keep that up and at some point there has to be a day of reckoning. Budget deficits add up to more inflation. Equate them with your household budget and you have to be a bit nervous about the day after tomorrow.

The point is that monetary policy with its attendant ills—high interest rates and a shortage of available funds—has carried the burden of fighting inflation so far. A balanced budget could lead to an easing of monetary policy and relieve the tight squeeze on credit that is making money scarce.

A few figures show the magnitude of the problem as the President and his advisers set out to get a handle on the amount of money spent by the Federal Government.

From fiscal years 1969 to 1975, budget expenditures will have risen at an annual rate of almost 9 per cent. If they continue to grow at this rate, federal outlays will more than double in 9 years and pass 1 trillion dollars by 1990. It is almost impossible to visualize that abundance of money flooding out of Washington every year.

It has become almost habitual for the Government to spend more money than it takes in. The last time the budget showed a surplus—more coming in than going out—was in the fiscal year 1969.

Washington wound up the fiscal year that ended last June with a deficit of 3.5 billion dollars. The way things have been going, the rise in spending from 1969 to the current fiscal year would be 121 billion, or 66 per cent.

Looking ahead to the next fiscal year, budget outlays in 1976 could be around 340 billion dollars if unchecked. The Administration hopes to hold spending to 330 billion.

Now look at what Government takes in. Revenue in 1974 rose by 32.6 billion dollars, or 14 per cent. Official estimates now call for a rise of more than 29 billion in 1975 to 294 billion, up 11 per cent.

If income could rise by another 11 per cent to about 326 billion in 1976, a budget balance could be achieved by cutting around 4 billion dollars from spending, or finding some way to take in an additional 4 billion.

But what to cut? That's the rub.

It is doubtful if any material paring would be done in such programs as Social Security, medicare, veterans' benefits, welfare, and so on.

If both the Administration and Congress were willing to take bit in teeth, there are ways to save money. For example:

Slow down public works—dams, flood control, harbor and highway construction.

Reduce the number of Government employes—both civilian and military.

Put off, or stretch out, the development and procurement of some new weapons.

Cut foreign aid even further.

If these are not enough, a near-balanced budget might be reached by raising taxes. Thought will have to be given to this proposal sooner or later, politically unsavory though it is to both parties.

Thus, Mr. Ford has a prospect of attaining his goal. It is, however, dependent on good business and a healthy economy that will keep tax receipts flowing into Washington.

If the economy runs into more serious trouble than it already is up against, you can forget all bets on a balanced budget.

THE VOTING RIGHTS ACT OF 1965—AN UNFAIR PIECE OF LEGISLATION

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, October 4, 1974

Mr. HARRY F. BYRD, JR. Mr. President, the Voting Rights Act of 1965, extended in 1970, is one of the most unfair pieces of legislation ever enacted by the Congress.

On the basis of a statistical formula it singled out six Southern States and placed their entire electoral process under direct supervision of the Federal Government. Virginia was among the States placed under Federal restrictions, even though there has never been proof of discrimination against any voter in Virginia.

Later, because of the arbitrary nature of the statistical formula, counties in Arizona, California, Hawaii, Idaho, and Wyoming came under the restrictions of the Voting Rights Act.

Now 40 towns and cities in New England, most of which have little or no minority population, are subject to the law.

The absurdity and unfairness of this situation, and of the Voting Rights Act itself, are well described in an editorial which appeared in the October 1 edition

of the Richmond News Leader. The editor of the editorial page of the News Leader is Ross Mackenzie.

I ask unanimous consent that the text of the editorial, "Only Percentages Count," be printed in the Extensions of Remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ONLY PERCENTAGES COUNT

What do Sandwich, Massachusetts, Groton, Connecticut, and Richmond, Virginia, have in common? All three have fallen victim to the trigger clause of the 1965 Voting Rights Act.

Sandwich and Groton are among 40 towns and cities that unexpectedly have found themselves subject to the Voting Rights Act, despite a lack of evidence that they had discriminated against minority groups in voting practices. In fact, most of the 40 towns and cities have little or no minority populations. Nonetheless, the Voting Rights Act comes into play whenever fewer than one-half of eligible voters participate in a presidential election.

In tabulating election results for the 1968 presidential election, the Census Bureau routinely reported that the 40 towns had failed the 50-percent-or-more voting test. Because Massachusetts, New Hampshire, Maine, and Connecticut technically had been included in the coverage of the Voting Rights Act for having previously used literacy tests to determine eligibility for voting, the 40 towns and cities now must answer to the Justice Department. With the exception of a few counties in Arizona, California, Hawaii, Idaho, and Wyoming, and two counties in New York, provisions of the Act theretofore have been imposed only in Southern states.

The new localities to fall under the Voting Rights Act have some surprises in store. They will be unable to change any of their voting procedures, including the changing of a precinct line, without permission from the Justice Department. To become exempt from federal supervision, they must prove that they have been innocent of any discrimination against minority voters in the past decade—even if they have no minority voters. As Virginia officials could tell them, this will involve lengthy and expensive court proceedings. There will be interminable delays and frustrating setbacks.

But that is the way the Act was written, and its harshness falls equally upon the guilty and the innocent. The Act presumes that any evidence of past wrongdoing—no matter how far in the past it may be—proves current guilt, and the burden of proof of innocence falls not upon the accuser, but upon the accused. Apathy may be the reason that fewer than one-half of the voters went to the polls in the 40 New England towns, but a plea of apathy will not suffice: Only percentages count. And, no doubt, when the Roll is Called Up Yonder, the 40 towns, along with numerous other towns, cities, and states, will still be crying, "We wuz framed," to no avail.

SENATE—*Monday, October 7, 1974*

The Senate met at 12 noon and was called to order by Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, as we undertake the work of this new week, make us deeply conscious of Thy presence. We would pause before Thee with clean hands and pure hearts, beseeching Thee to keep us and guide us by Thy grace. As the times demand strong minds, great hearts, true faith, and willing hands, so wilt Thou consecrate us wholly to Thy service. Make us godly for man's sake and manly for God's sake. And may Thy kingdom be advanced through what we do.

We pray in His name who said, "Blessed are the pure in heart for they shall see God." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 7, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. HATHAWAY thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, October 4, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESOLUTION COMMENDING INTERNATIONAL HOUSE

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Republican leader and myself, I send to the desk a resolution and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 421) was considered and agreed to, as follows:

Whereas, International House at 500 Riverside Drive, New York City was founded in 1924 to provide a residence and gathering center for graduate students from all countries and all races; and

Whereas, International House which was started for the humanitarian purpose of alleviating the loneliness of students in New York City has evolved into a global society in microcosm and, for 50 years, has served to provide students with an opportunity to learn to live with their peers from all nations; and

Whereas, 50,000 alumni of International House living in 130 countries have undergone this unique experiment in multinational human relations: Wherefore, be it

Resolved, That the Senate of the United States commends International House on the service which it performs on behalf of international understanding and world peace and extends warm congratulations to International House on the occasion of its golden jubilee anniversary.

SEC. 2. The Secretary of the Senate is directed to present a copy of this resolution to a representative of International House, at ceremonies in New York City, on November 9, 1974.

CONSIDERATION OF CERTAIN ITEMS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendars Nos. 1158, 1159, 1162, 1163, and 1165.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

REFERRAL OF A BILL TO THE COURT OF CLAIMS

The resolution (S. Res. 90) to refer the bill (S. 1453) entitled "A bill for the relief of Thomas Raymond Pomaski" to the Chief Commissioner of the U.S. Court of Claims for a report thereon was considered and agreed to, as follows:

Resolved, That the bill (S. 1453) entitled "A bill for the relief of Thomas Raymond Pomaski" now pending in the Senate, together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

REFERRAL OF A BILL TO THE COURT OF CLAIMS

The resolution (S. Res. 344) to refer S. 3666 to the Court of Claims, was considered and agreed to, as follows:

Resolved, That S. 3666 entitled "A bill for the relief of Marlin Toy Products, Incorporated", together with all accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, for further proceedings in accordance with applicable law.